

The Gazette



of India

PUBLISHED BY AUTHORITY

No. 39] NEW DELHI, SATURDAY, SEPTEMBER 28, 1963/ASVINA 6, 1885

## NOTICE

The undermentioned Gazettes of India Extraordinary were published upto the 17th September, 1963 :—

Issue No.	No. and Date	Issued by	Subject
177	S.O. 2653, dated 11th September, 1963.	Cabinet Secretariat	Amendments in Government of India (Allocation of Business) Rules, 1961.
178	S.O. 2654, dated 12th September, 1963.	Ministry of International Trade.	Authorising Shri Bhogilal Narottamdas Shah to take over the management of the whole of the undertaking of the Bharatkhand Textile Manufacturing Company Limited, Ahmedabad.
179	S.O. 2655, dated 16th September, 1963.	Election Commission, India.	Amending the notification No. 100/POND/HP/63, dated the 31st August, 1963 by substituting for the words "3rd October" in clause (d) thereof the words "4th October".
180	S. O. 2728, dated 17th September, 1963.	Ministry of Information and Broadcasting.	Approval of the films specified therein.
	S.O. 2729, dated 17th September, 1963.	—Ditto—	Approval of the film specified therein.

Copies of the Gazettes Extraordinary mentioned above will be supplied on indent to the Manager of Publications, Civil Lines, Delhi. Indents should be submitted so as to reach the Manager within ten days of the date of issue of these Gazettes.

**PART II—Section 3—Sub-section (ii)**

**Statutory orders and notifications issued by the Ministries of the Government of India (other than the Ministry of Defence) and by Central Authorities (other than the Administrations of Union Territories).**

**ELECTION COMMISSION, INDIA**

*New Delhi, the 19th September 1963*

**S.O. 2736.**—In exercise of the powers conferred by sub-section (1) of section 13A of the Representation of the People Act, 1950 (43 of 1950), the Election Commission, in consultation with the Government of Nagaland, hereby nominates Shri Sashimeren Aelr as the Chief Electoral Officer for Nagaland with effect from the date he takes over charge and until further orders.

[No. 154/24/63.]

**PRAKASH NARAIN, Secy.**

*New Delhi, the 21st September 1963*

**S.O. 2737.**—In pursuance of sub-section (6) of Section 116A of the Representation of the People Act, 1951 (43 of 1951), the Election Commission hereby publishes the decision of the High Court of Allahabad, Lucknow Bench, given on the 23rd July, 1963, on an appeal from the order dated the 2nd March, 1963 of the Election Tribunal, Lucknow.

**IN THE HON'BLE HIGH COURT OF JUDICATURE AT ALLAHABAD,**

**(LUCKNOW BENCH) LUCKNOW**

**FIRST CIVIL APPEAL No. 11 of 1963**

**Kidwai Hussain Kamil, son of Sri Imtiaz Ali, resident of village and Post Office Masauli, Tehsil Nawabganj, District Barabanki ..... Petitioner—Appellant.**

**Vs.**

1. Yadav Ram Sowak, son of Sri Ram Chulam, House No. 127 Mohalla Rasulpur, Nawabganj City, District Barabanki.
2. Sri Krishna Das, son of Sri Anrudh Das, village Kusfar, P.O. Daryabad, District Barabanki,
3. Krishna Behari, son of Sri Bipin Behari, Mohalla Naushera, District Gonda.
4. Autar, son of Sri Badloo, village Sarraundi, P.O. Kheoli, District Barabanki.—*Respondents.*

*Nature of the Election Petition.*—Election Petition u/s. 81 of the Representation of the People Act.

*Valuation of appeal.*—Rs. 500.

Appeal under section 116A of the Representation of People Act, 1951, against the order of Sri S. Malik, the Election Tribunal, Lucknow (District Judge, Lucknow) dated the 2nd March, 1963, dismissing with costs the petitioner's election petition No. 74 of 1962 relating to the Parliamentary Constituency No. 30 Barabanki.

*Lucknow dated the 23rd July, 1963.*

*For Appellant.*—Sarvasri Iqbal Ahmad, Bishun Singh, B. C. Agarwal, S. P. Jain.

*For Respondent No. 1.*—Sarvasri N. D. Srivastava and Umesh Chandra.

*Respondents Nos. 2-4.*—Served previously.

Hon'ble J. Sahai, J.,

Hon: R. N. Sharma, J.

Court No. 2.

**FIRST APPEAL No. 11 of 1963.**

Hon'ble Jagdish Sahai, J.

Hon'ble R. N. Sharma, J.

Delivered by Hon: Jagdish Sahai, J.

This is an appeal directed against the order passed by the Election Tribunal, Lucknow, on the 2nd of March, 1963, dismissing the election petition filed by the appellant, Kidwai Husain Kamil (Husain Kamil Kidwai). The Barabanki Parliamentary Constituency No. 30 (hereinafter referred to as the Constituency) consists of the following five U.P. Legislative Assembly Constituencies:—

1. 148	Nawabganj.
2. 149	Kursi.
3. 150	Bhitauli.
4. 170	Sarju.
5. 171	Tarabganj.

In the last general election the appellant Kidwai was a candidate from the constituency on Congress ticket. Opposed to him were Yadav Ram Sewak (Ram Sewak Yadav) on the Socialist Party ticket, Sri Krishna Das on the Jan Sangh ticket, Krishna Bihari on the Swatantra Party ticket and Autar on the Communist Party ticket.

The counting of the votes took place between the 26th of February, and 28th of February, 1962. Yadav Ram Sewak was declared elected. The number of the votes secured by each of the candidates is as follows:—

- (1) Kidwai Husain Kamil—(Congress—Petitioner).—76,224.
- (2) Yadav Ram Sewak—(Socialist—Respondent No. 1).—76,545.
- (3) Sri Krishna Das—(Jan Sangh—Respondent No. 2).—38,602.
- (4) Krishna Bihari—(Swatantra Party—Respondent No. 3).—18,971.
- (5) Autar—(Communist—Respondent No. 4).—13,134.

The petitioner Kidwai presented the election petition giving rise to this appeal before the Election Commission on 10th of April, 1962. The Election Commission constituted a single Member Tribunal presided over by Sri S. Malik for deciding this petition. The election petition which is dated the 6th of April, 1962, was published in the Gazette of India dated the 5th of May, 1962. On the 1st of June, 1962, it was received by Sri S. Malik, (at present Distt. Judge, Lucknow) for decision. Several grounds were taken in the petition including those relating to corrupt practice on the part of Yadav Ram Sewak, the respondent No. 1. The main ground, however, was that a large number of ballot papers had been declared to be invalid by the returning officer, though, in fact, they were valid and that the returning officer, committed an error in not accepting a large number of tendered votes which should have been accepted. It was also alleged in the petition that there was a discrepancy in the total number of votes in form No. 16 prepared by the presiding officer and form No. 20 prepared by the returning officer, that there were glaring mistakes in totalling up of the figures and that a large number of votes, which were polled in his favour, were not so counted and many of them were counted erroneously in favour of the respondent No. 1.

A written statement was filed on behalf of Yadav Ram Sewak (hereinafter referred to as the contesting respondent) in which all the allegations of the petitioner, including these relating to corrupt practice, wrong inclusion of votes in favour of the contesting respondent and wrong exclusion from those of the petitioner were controverted. *Inter alia*, an objection was also taken that the petitioner had not complied with the provisions of Section 83 of the Representation of the People Act, 1951, and that the allegations made in the petition were vague and the petition was liable to be dismissed.

On the 8th of August, 1962, an application was made on behalf of Kidwai for permission to inspect the ballot papers by eleven persons whose names were given in the application. This application was supported by an affidavit. This affidavit was verified on solemn affirmation in the following manner:—

“Contents of paragraphs 1, 2, 3 and 7 were verified to be “true on knowledge”, those of paragraphs 4(a) to 4(b) and those of paragraphs 5, 6, 6(i) to 6(iii) and 8, 9, 10 and 12 were verified to be “true on information received and believed to be true” while the contents of paragraphs 13 and 14 were verified to be true on legal advice received.”

An objection to this application was taken on behalf of the contesting respondent in writing on the 18th of August, 1962. One of the prayers contained in this

objection, which was in the form of an application, was that the preliminary issues be first decided so that the parties may not be put to unnecessary expenses and the Tribunal's time be also saved. It was also prayed that the application for inspection of the ballot papers be rejected. Paragraph 4 of this objection stated that the election petition was liable to be dismissed on the ground of want of proper verification and also because no affidavit was filed along with it as required by the proviso to section 83 of the Act. Sri Malik after hearing the counsel for the parties dismissed the application of the petitioner for permission to inspect the ballot papers, even though the same were available in court, having been summoned by him earlier and in spite of certified copy of the Return clearly disclosing mistakes in totalling having been shown to him. The petitioner made another application on the 8th of September, 1962, praying that "issues arising out of the positive averments contained in the election petition be framed, and in due course security of the ballot papers be made, and, at the proper stage, inspection of the ballot papers by the petitioner and his counsel be allowed as observed by this Tribunal in its order dated August 25, 1962." This application was founded mainly on an observation made by the Tribunal in its earlier order which reads as follows:—

"If in future from facts that may be brought to the notice of the Tribunal, it appears that in the interest of justice, an inspection should be allowed, necessary orders allowing an inspection could always be passed."

This application was also contested and the prayer for permission to inspect the ballot papers was rejected, but the learned member of the Tribunal again observed as follows:—

"It may also be pointed out that while rejecting the petitioner's application for inspection of ballot papers, the Tribunal observed that if from the evidence that may be adduced by the petitioner, it appears that an inspection should be allowed for a just decision of the petition, the inspection shall be allowed. If all the grounds regarding reception and rejection of ballot papers and wrong counting are struck off, the petitioner would be deprived of an opportunity of showing to the tribunal that there is substance in the grounds taken by the petitioner justifying an inspection or general scrutiny and recount. Under the circumstances, the objections put forward, on behalf of the respondent are hereby rejected.

Let an early date be fixed for framing of issues."

The petitioner repeated his effort for an inspection of the ballot-paper and made an application dated the 16th of November, 1962, in which he prayed for either of the two following reliefs:—

- (a) allow the petitioner assisted by his counsel, subject to such conditions and terms as appear to it to be reasonable, to inspect the ballot papers and the said forms and to put the result of that inspection in a concise and tabulated form before this Hon'ble Tribunal for its scrutiny.
- (b) This Hon'ble Tribunal be pleased itself to inspect and scrutinise the ballot papers in the presence of the counsel of both the parties, and record the result of such examination and scrutiny and then pronounce its decision accordingly."

This application was also opposed on behalf of the contesting respondent by means of a written reply dated the 26th of November, 1962, with the result that the prayer for the inspection of the ballot papers either by the parties or for the scrutiny of the same by the Tribunal was refused though the Tribunal permitted the parties to file such documents as they liked. The same day i.e. on 26th of November, 1962, the learned counsel for the petitioner made a statement that he did not wish to produce any documents and that the prayer of the petitioner—appellant for the inspection of the ballot papers be reconsidered. The learned member of the Tribunal fixed the 3rd of December, 1962, for arguments on the question as to whether in view of the statement made by the petitioner, the question of inspection of ballot papers by him should be reconsidered and in case the inspection be not allowed, whether the Tribunal should itself make a scrutiny of the ballot papers as prayed for.

It seems that no orders were passed on the 3rd of December, 1962, and the matter was taken up by the presiding officer on the 17th of December, 1962. On that date the learned counsel for the appellant formally tendered in evidence all

the ballot papers by means of an application of the same date and withdrew all allegations relating to corrupt practice on the part of the contesting respondent. The exact words used in the application made on behalf of the appellant are as follows:—

"3 of the issues, viz. issues 3, 4 and 5 do not now require decision in view of the statement made by the petitioner's counsel. As regards the surviving issues, viz. issues 1, 2 and 6 it is impossible for the petitioner to produce any oral evidence and the only evidence decisive of those issues can be the ballot papers themselves. The petitioner, to set all controversy at rest, does hereby formally tender in evidence all the ballot papers. That being so, the ballot papers have to be opened, inspected or scrutinised. It may be noted here that all the ballot papers were summoned by an order of the Tribunal dated 6th July, 1962. and are present in the record room of the Tribunal."

To this application, the contesting respondent gave a written reply, opposing the opening of the ballot papers on the ground that no *prima facie* case had been made out for their inspection. With regard to the allegation of the appellant that the certified copy of the return issued to him by the returning officer clearly disclosed totalling mistakes which affected the result of the election, the reply on behalf of the contesting respondent was that "the alleged mistake in the certified copies of the return, can be tested with the original". It was also stated in the written reply that in fact there was no mistake in the original and the factual position was that some mistakes had been committed in the certified copy issued to the appellant. The Tribunal dismissed the election petition without allowing inspection by the parties or scrutinising the ballot papers itself.

In all the following six issues were framed in the case:—

- (1) Whether there was improper reception, refusal or rejection of votes at the time of counting and if so, whether the result of the election was materially affected due to the same?
- (2) Is there any discrepancy between the total number of votes mentioned in Form No. 16 and Form No. 20 as alleged in paragraph 6(C) and (D)? If so, its effect?
- (3) Whether the tendered votes were wrongly rejected by the Returning Officer and if so, was the result of the election materially affected due to the same?
- (4) Whether at the polling station No. 29, Maigawan, in Bhitauli Unit and Kursi, Polling Station in Kursi Assembly Unit the Polling Officers did not give ballot papers to the voters as mentioned in paragraph 10 of the petition? If so, its effect?
- (5) Whether counting of votes of Bhitauli Assembly Unit went upto 8-30 P.M. in the night and after 5-30 P.M. it was done in the falling and insufficient light in spite of protests as alleged in paragraph 11 of the petition? If so, its effect?
- (6) Whether the petitioner received a majority of valid votes and is entitled to be declared duly elected?

The Tribunal decided issues Nos. 3, 4 and 5 against the appellant and in favour of the contesting respondent, on the finding that a heavy burden lay on the appellant which he had failed to discharge. On issue No. 2 it recorded the finding that "there is nothing before the Tribunal to show that the allegations made by the petitioner regarding these forms in paragraphs 6(C) and (D) are correct" and decided that issue against the appellant and in favour of the contesting respondent. On issues Nos. 1 and 6 it recorded the finding that the "petitioner has failed to prove any fact justifying inspection of the ballot papers and there is nothing on the record to show that the respondent No. 1 was wrongly declared to have been elected". Having thus disposed of the six issues in the case, he dismissed the petition and awarded a sum of Rs. 1,000 as costs to the respondent No. 1.

Dissatisfied with this decision, the appellant has filed the present appeal in this Court.

We have heard Sarvri Iqbal Ahmad and Bishan Singh for the appellant and Sarvri Hargovind Dayal and Umesh Chandra Srivastava for the contesting respondent.

The submission have been made on behalf of the appellant. They are as follows:

- (1) That the Tribunal was in error in having supposed that the effect of rule 93 of the Rules framed under the Representation of People Act, 1951 (hereinafter referred to as the Act) was that the policy of the law was to reject an application for the inspection of ballot papers except for very strong reasons.
- (2) That in any case the petitioner had given *prima facie* evidence and placed before the Tribunal all the material that any person in his position could have placed in support of the request for the inspection of the ballot papers and connected documents.

On behalf of the contesting respondent not only these submissions have been opposed, but an objection has been taken to the maintainability of the appeal as also of the petition on the ground that the petition did not fulfil the requirements of section 83 of the Act and consequently was not maintainable. It is urged that even though no cross-appeal or cross-objection has been filed, this ground is being taken in order to support the order or the decree passed by the Election Tribunal on principles analogous to those enshrined in O. 41, r. 22 C.P.C., which permits a respondent to raise such pleas in support of the decree of the court below which would sustain the decree.

With a view to appreciate fully the submissions made at the bar it is necessary to consider some provisions of the Act. Section 80 of the Act reads as follows;

"80. Election Petitions.—No election shall be called in question except by an election petition presented in accordance with the provisions of this part."

Section 81 of the Act deals with the manner in which an election petition is to be presented. Section 82 provides as to who would be the parties in the petition. Section 83 of the Act deals with the contents of the petition. That provision reads as follows:—

"83. Contents of petition.—(1) An election petition—

- (a) shall contain a concise statement of the material facts on which the petitioner relies;
  - (b) shall set forth full particulars of any corrupt practice that the petitioner alleges, including as full a statement as possible of the names of the parties alleged to have committed such corrupt practice and the date and place of the commission of each such practice; and
  - (c) shall be signed by the petitioner and verified in the manner laid down in the Code of Civil Procedure, 1908 (V of 1908), for the verification of pleadings.
- (2) Any schedule or annexure to the petition shall also be signed by the petitioner and verified in the same manner as the petition;

Provided that where the petitioner alleges any corrupt practice, the petition shall also be accompanied by an affidavit in the prescribed form in or support of the allegation of such corrupt practice and the particulars thereof."

Section 100 of the Act provides the grounds for declaring an election to be void.

Before we come to the merits of the submissions made on behalf of the appellant, we would like to dispose of the submission made on behalf of the respondent No. 1 with regard to the maintainability of the election petition and the appeal before us. It was strenuously contended by the learned counsel for the contesting respondent that the petition was not maintainable on account of the vagueness of allegations made therein and also because it was not properly presented. The submission is founded on two contentions. The first contention is that in the petition charges had been made with regard to corrupt practice on the part of the contesting respondent and inasmuch as there was no affidavit in support of those charges, the petition could not have been received. The second contention is that in any case the details of the manner in which the votes were allegedly counted in favour of the contesting respondent and allegedly wrongly excluded from that of the appellant had not been given. We are unable to accept either of these contentions. We have already reproduced section 83 of the Act earlier.

It would be noticed that so far as clause (a) of section 83 is concerned, unlike clause (b) it does not require "full particulars." On the other hand, all that it requires is "a concise statement of the material facts on which the petitioner relies." When the petition was filed, it was founded on the ground of wrong inclusion and wrong exclusion of votes as also on the ground of corrupt practice. Therefore, so far as the charge of corrupt practice was concerned, full particulars of the same had to be given without which the petition was obviously defective. But so far as the allegation relating to the wrong inclusion and wrong exclusion of the votes is concerned, that did not at all require full particulars being given and the requirement of clause (a) of section 83 of the Act would have been completely satisfied if what was given amounted to a "concise statement of the material facts on which the petitioner relies." A bare perusal of these provisions reveals that the Legislature has worded the clauses in distinctly different phrasology. Whereas the law requires emphatically that the particulars of any corrupt practice should be disclosed in the petition, it does not require similar particulars to be given in respect of other matters. We have looked into the Shorter Oxford Dictionary in order to find out the meaning of the word 'concise'. Amongst others, the following have been given:—

"Brief in expression (of speech, style, person)." In short all that 'concise' means is a brief though definite statement of the facts on which the petitioner relies. We cannot equate the requirements of clause (a) with those of clause (b) of section 83 of the Act because the words used in one are so different from the words used in the other. Having carefully perused the allegations of the appellant contained in the petition relating to the wrong inclusion of votes in the count of the contesting respondent and wrong exclusion of votes from those of the appellant, we are of the opinion that the proper compliance with the law has been made in this case and a concise statement of facts relied upon by the appellant has been given. We are, therefore, unable to hold that the petition as presented was defective, in respect of wrong inclusion and wrong exclusion of votes and other connected matters.

So far as the charge of corrupt practice on the part of the contesting respondent is concerned, we have already said earlier that during the course of the trial the same were withdrawn with the result that no issue was even framed in respect of the same. The question, therefore, that remains to be considered is whether the mere fact that at the time of the presentation of the petition, charges relating to corrupt practices were also included and there was no affidavit filed in support of it, would justify the conclusion that the petition was improperly presented and is liable to be dismissed on the ground alone even after those charges have been withdrawn. Section 83 of the Act does not provide for the dismissal of the petition for want of an affidavit to support the allegations relating to corrupt practice.

There are two provisions which deal with the summary dismissal of an election petition. These are sections 85 and 90(3) of the Act. Section 85 deals with the powers of the Election Commission to dismiss an election petition while section 90(3) deals with the powers of the Tribunal. Section 85 reads as follows:—

"85. *Procedure on receiving petition.*—If the provisions of section 81 or section 82 or section 117 have not been complied with, the Election Commission shall dismiss the petition:

Provided that the petition shall not be dismissed without giving the petitioner an opportunity of being heard."

Having carefully considered the provisions of section 85 of the Act, we are of the opinion that it is exhaustive of the grounds on which an election petition can be dismissed by the Election Commission. The result is that the petition could have been dismissed by the Election Commission only on the ground of non-compliance with the provisions of section 81 or 82 or 117. Admittedly, the circumstance that in support of the allegations relating to the corrupt practice made by the appellant, there is no affidavit, is not a ground which is covered by any of the sections 81, 82 and 117 of the Act. Consequently the Election Commission could not have dismissed the petition on the ground that it was not supported by an affidavit in respect of the charges relating to corrupt practice. Similarly, the Election Tribunal could dismiss a petition only on the ground that it did not comply with the provisions of section 81 or section 82 of the Act. None of the contingencies contemplated by this provision are to be found in the

present case. No other provision has been brought to our notice by the learned counsel for the parties and we are not ourselves aware of any under which a petition could have been dismissed, otherwise than on merits, by the Tribunal.

Consequently, we are satisfied that the defect of the charges relating to corrupt practice not being supported by an affidavit was not fatal to the maintainability of the election petition and even though its effect could be considered at the time or the final hearing of the petition, the same could not be dismissed summarily on that ground either by the Election Commission or by the Election Tribunal. The argument of the learned counsel for the contesting respondent, therefore, that the petition could not have been received or was liable to be summarily dismissed on the ground of want of an affidavit or full particulars cannot be accepted.

Having given our anxious consideration to the relevant provisions of the Act, specially of the proviso to section 83 of the Act, we are of the opinion that the proviso is not in the nature of a mandatory provision the non-compliance of which would result in the summary dismissal of the petition. It is not necessary to go into the various cases which deal with the question as to what meaning should be given to the words 'shall' or 'may' occurring in a particular provision and whether the use of the former is conclusive of the mandatory nature of the provision and that of the latter only of directory. It is well-established that nothing depends upon the use of the word 'may' or 'shall' and an enactment in form mandatory might in substance be directory. (see *Junius v. Bishop of Oxford* <sup>(1)</sup>, *H. V. Kamath v. Ahmad Ishawue* <sup>(2)</sup>, *Narayan Rao v. The State of Andhra Pradesh* <sup>(3)</sup>, *State of U.P. v. Manbodhan Lal* <sup>(4)</sup>, *K. S. Srinivasan v. The Union of India* <sup>(5)</sup> and *Rani Drigraj Kuer v. Raja A. K. N. Singh*, <sup>(6)</sup>). It is also settled that in order to decide whether a provision is directory or mandatory, not only the actual words used but the scheme of the statute, the intended benefit to public of what is enjoined by the provisions and the material danger to the public by the contravention of the same have got to be seen. (see *Banwari Lal v. State of Bihar* <sup>(7)</sup>). In *Collector of Monghyr v. Krishna Prasad* <sup>(8)</sup>, it was held that the employment of the auxiliary verb 'shall' is in conclusive and similarly the mere absence of the imperative is not conclusive either. In order to determine whether a provision is directory or mandatory, it has got to be seen whether any consequences are provided for the omission to observe the requirement and what is the purpose for which the requirement has been indicated, having special regard to the context in which it has been provided, the other provisions of the Act as also the general scheme thereof. In *Rani Drigraj Kuer v. Raja A. K. N. Singh* (supra) it was held that even a directly provision is intended to be obeyed but failure to obey does not render a thing, duly done, in disobedience of it, a nullity and that in every case the intention of the legislature has got to be gathered from the whole of the Statute. Judging the provisions of section 83 by the test given above, it appears to us that the proviso to section 83 of the Act mandatory. There is no provision in the Act providing for a penalty for the non-obedience of the proviso. The scheme of the Act lays insistence on giving full details of corrupt practices and on filing an affidavit in support thereof to give greater solemnity to the allegations made in the petition and to ensure that the same were not lightly and cursorily made. If the legislature intended the non-observance of the proviso as fatal either to the entertainment or to the maintainability of the petition, it would have provided either for the dismissal of the petition on that ground or for any other penal consequence.

It is well-settled that plaints not properly verified, when presented, do not entail their dismissal even if the defect is removed after the expiry of the period of limitation. On principle, we see no difference between a plaint and an election petition and are of opinion that if, before the hearing of a case is concluded, an affidavit is filed as required by the proviso to section 83, the Election Tribunal would not be justified in rejecting the petition on that ground.

(1) (1880) 5 AC 214.

(2) AIR 1955 SC 233.

(3) AIR 1957 SC 737.

(4) AIR 1957 SC 912.

(5) AIR 1958 SC 419.

(6) AIR 1960 SC 444.

(7) AIR 1961 SC 849.

(8) AIR 1962 SC 1694.



Having thus disposed of the preliminary objection of the learned counsel for the contesting respondent, we proceed to deal with the submissions made by the learned counsel for the appellant. Rule 93 deals with matters relating to inspections and reads as follows;

"93. *Production and inspection of election papers.*—(1) While in the custody of the returning officer—

- (a) the packets of unused ballot papers;
- (b) the packets of used ballot papers whether valid, tendered or rejected;
- (c) the packets of marked copy of the electoral roll or, as the case may be, the list maintained under sub-section (1) or sub-section (2) of section 152; and
- (d) the packets of the declarations by electors and attestation of their signatures;

shall not be opened and their contents shall not be inspected by, or produced before, any person or authority except under the order of a competent court or tribunal.

(2) All other papers relating to the election shall be open to public inspection subject to such conditions and to the payment of such fee, if any, as the Election Commission may direct.

(3) Copies of the returns by the returning officer forwarded under rule 64 or as the case may be, under sub-rule (3) of rule 84 shall be furnished by the chief electoral officer of the State concerned on payment of a fee of two rupees for each such copy.

It is true that the provision is based upon a rule of public policy, the same being that the secrecy of the ballot must be maintained. The rule is divided in three parts; the first part deals with packets of unused ballot-papers, packets of used ballot-papers, packets of marked copy of electoral roll, the list maintained under sub-section (1) or (2) of section 152 and packets of declaration by electors and attestation of their signatures. The second part deals with all other papers relating to elections. The third part deals with copies of the return by the returning officer. So far as the documents mentioned in sub-rule (1), i.e., the first part of rule 93 are concerned, it has been clearly provided that nobody shall be entitled to open or look into them except under the order of a competent court or tribunal. Papers mentioned in sub-rule (2) of rule 93 are open to public inspection. Copies of returns provided for in sub-rule (3), i.e., the third part of rule 93, have got to be furnished by the Chief Electoral Officer on payment of a fee of Rs. 2/-. The petitioner wanted the inspection of the papers mentioned in sub-rule (1) also. The question for consideration is whether in the circumstances of the present case, the Election Tribunal should have permitted their inspection. The Tribunal observed as follows in this connection:

"Thus the question as to whether inspection of ballot paper should be allowed has been left to the discretion of the Tribunal. If the intention of the legislature had been to allow scrutiny or inspection of ballot papers easily, a rule would definitely have been framed allowing such inspection on certain conditions. The fact that it has been left to the discretion of the Tribunal shows that inspection should ordinarily be refused unless the Tribunal considers such inspection necessary in the interest of justice."

We are unable to share the view of the Tribunal that the law is that inspection should ordinarily be refused. There is nothing in rule 93 which warrants such a conclusion. There is no other provision in the Act or the Rules framed thereunder which can lead to a similar result. Rule 93 is very widely worded. The powers of the Court or the Tribunal have no fetters appended and the mere fact that the Tribunal has been given a discretion in the matter does not mean, as has been wrongly assumed by the Tribunal, that it should ordinarily be refused. The principles on which a judicial Officer is to exercise his discretion are so well-known and there cannot be any controversy about them. In substance the principle is that discretion should always be exercised in order to advance the cause of justice and not to defeat the same. Whether discretion is vested in a court or a Judicial Officer, it has got to be exercised judicially.

Having considered the facts of the case, the pleadings of the parties and the evidence on the record, we are of the opinion that in the present case, the Tribunal exercised its discretion wrongly. The learned Member of the Tribunal was led

into this error because he thought that the circumstances that the matter had been left to the discretion of the Tribunal indicated that normally inspection should be refused. We have already said above that there is nothing in the Act or the Rules which justify such a conclusion. We have found it difficult to see as to what better method could there be of proving that votes cast in favour of the appellant were excluded from his count and a large number of votes had been wrongly included in the count of the contesting respondent than allowing inspection of the ballot-papers and enabling counsel to point out on the ballot papers which he thought have been wrongly excluded from the count of the appellant or wrongly included in the count of the contesting respondent. The appellant not only made repeated applications for inspection being allowed but also tendered all the ballot-papers solemnly and formally as evidence on his behalf. Admittedly, the ballot-papers were before the Tribunal. Under these circumstances, we have found it extremely difficult to appreciate the objection of the Tribunal either to inspection being allowed or to himself looking into the ballot-papers. Mr. Hargovind Dayal, who appeared for the respondents, had to admit that no restrictions had been placed on the powers of the Tribunal and it committed a manifest error of law in assuming that the scheme of the Rules was to normally refuse inspection, but he has contended that the affidavit filed in support of the first application for the inspection of the ballot-papers was not in proper form and had not been verified in accordance with the law. It is contended that it has not been shown in the verification clause as to on whose knowledge paragraphs 1, 2, 3 and 7 of the affidavit have been sworn to be true. It is also complained that it has not been mentioned in the verification clause as to on whose information the deponent of the affidavit believed the contents of paragraphs 4(a) and 4(b), 5, 6(i) to 6(iii), 8, 9, 10 and 12 to be true. It is true that the verification clause is not very happily worded, but it must also be remembered that at the time when the affidavit was filed, neither the Tribunal nor the contesting respondent nor his counsel objected to the acceptance of the same. It was open to the contesting respondent or the Tribunal to object to the affidavit and in that case another affidavit could have been filed by the appellant. No prayer was also made for the cross-examination of the deponent of the affidavit by the contesting respondent. The affidavit was not intended to be a piece of evidence in the case but was required only to support an application made for the inspection of the ballot papers and other connected documents. Consequently, we are of the opinion that the objection not having been raised in the trial Court, it cannot be allowed to be raised for the first time before us. Apart from it, the Rules provide the form in which an affidavit is to be verified in connection with election petitions. Form 25 reads as follows:

"I, ..... the petitioner in the accompanying election petition calling in question the election of Shri/Shrimati..... (respondent no. .... in the said petition) make solemn affirmation/oath and say—

- (a) that the statements made in paragraph ..... of the accompanying election petition about the commission of the corrupt practice of ..... and the particulars of such corrupt practice mentioned in paragraphs..... of the same petition and in paragraphs..... of the Schedule annexed hereto are true to my knowledge;
- (b) that the statements made in paragraphs ... of the said petition about the commission of corrupt practice of..... and the particulars of such corrupt practice given in paragraphs..... of the said petition and in paragraphs ... of the Schedule annexed thereto are true to my information;

Learned counsel for the appellant submitted that the form for verification to be adopted in matters relating to election petitions should be one in conformity with form 25 of the Rules and that the rules of the High Court contained in Chapter VI of the Rules of this Court are not applicable to election petitions and connected proceedings. In our judgment, there is substance in this submission. Learned counsel for the contesting respondent has invited our attention to 0.19.r.3, C.P.C. as amended by this Court also and has made a reference to rules 8 to 15 added by this Court. In our opinion, the amendment made by this Court to the Code of Civil Procedure cannot govern a matter relating to the conduct of election petition in derogation of the provisions of the Act and the Rules framed thereunder. In the first place, when section 92 of the Act made the Code of Civil Procedure applicable to proceedings before the Election Tribunal, it contemplated the Civil Procedure as passed by the Legislature and not inclusive of local amendments. The Act is an all-India statute and an election petition from whatever State it may

arise, can be sent for trial by the Election Commissioner before any Tribunal situated in any part of India. Consequently, it cannot be said that if an election petition is tried in Allahabad, the Code with local amendments would apply but if the same petition was to be tried in Madras or in Bombay or in Punjab, the local amendments of Allahabad would not apply. There has got to be a uniform law and practice for the whole of the country in a matter like this. Consequently, we are of the opinion that when section 92 of the Act made the Code of Civil Procedure applicable to proceedings in an election petition, it only made the provisions of the Code, exclusive of the local amendments, applicable. But quite apart from it, there is nothing in the Code or any local amendments which can apply in derogation of the Act or the Rules framed thereunder. In *Inamati Mallappa Basappa v. Desai Basavarai Ayyappa and others* (9) the Supreme Court clearly held that the provisions of the Representation of the People Act as a whole constitute a self-contained Code governing the trial of election petitions. The Allahabad amendments cannot over-ride form No. 25. The affidavit filed by the petitioner is in substantial compliance with form No. 25 and even though it is not in strict conformity with rules 8 and 9 of the Rules added by this Court to O.P.C., it cannot be said that the defect is vital and the prayer for inspection was rightly refused.

In the end, the learned counsel for the respondent cited *State of Bombay V. Purshottam Jog* (10) and invited our attention to the following passage in the judgment:

"We wish, however, to observe that the verification of the affidavits produced is defective. The body of the affidavit discloses that certain matters were known to the Secretary who made the affidavit personally. The verification however states that everything was true to the best of his information and belief. We point this out as slipshod verification of this type might well in a given case lead to a rejection of the affidavit. Verification should invariably be modelled on the lines of Order 19, Rule 3 of the Civil Procedure Code, whether the Code applies in terms or not. And when the matter deposed to is not based on personal knowledge the sources of information should be clearly disclosed."

This decision is distinguishable firstly on the ground that in the present case we have held that the affidavit is in conformity with form 25 and consequently not defective and secondly because the decision is no authority for the proposition that even though an affidavit is admitted, without objection, in the trial court, not as a piece of evidence in the case but only in connection with an application made for the inspection of the record, it should be rejected on the objection made in the appellate Court long after it had been admitted. This case, therefore, does not advance the case of the contesting respondent.

For the reasons mentioned above, we see no force in the submission of the learned counsel that inspection of the ballot-papers should be refused on the ground that the affidavit was not properly verified and that the Tribunal was justified in refusing to permit inspection of the ballot papers.

In this connection, we would like to point out that the learned counsel for the appellant had, before the Tribunal, produced a certified copy of the return from which it clearly appeared that there was a mistake in totalling. With regard to this certified copy, the learned counsel for the respondent in his written application had not only not objected to the original return being seen but had actually stated that "the alleged mistake in the certified copy of the return can be tested with the original." Even though both the parties agreed that it was proper to see the original return, Sri S. Malik, surprisingly enough refused to do so on the ground that the original return had not been summoned. We have found it difficult to comprehend what the learned member of the Tribunal meant by the words that the "original return had not been summoned." The entire papers including the original return had not only been summoned by him but were also before the Tribunal. Besides, he should have appreciated that the allegations made in the affidavit filed in support of the application and production of the certified copy of the return clearly showed that the inspection was required not to harass the contesting respondent but in the interest of justice and with a view to prove the case of the appellant. We are constrained to say that the Tribunal erred grievously in not allowing the inspection even under these circumstances.

We have again not been able to understand as to what did the learned member of the Tribunal mean by saying that he did not see the original return because nobody had applied for its inspection. Under the provisions of section 92(a) of the Act, discovery and inspection is permitted. It was contended that this provision gave the Tribunal jurisdiction to permit inspection of the ballot-papers. The Tribunal, however, observed as follows in this connection:—

“Order XI, rule 15 to 18 lay down under what circumstances inspection can be allowed. It is apparent that under the Code of Civil Procedure inspection could be allowed only of documents referred to in the pleadings and in the possession of any of the parties to the suit. In this case, the ballot-papers are not documents in the possession of any of the parties to the petition. They obviously were in the possession of the returning officer who is not a party to the case. Therefore, the inspection prayed for cannot be allowed under section 30 read with Order XI, C.P.C.”

We have already said earlier that it is a fact which is admitted by both the parties before us that the ballot-papers and the returns were in the custody of the Tribunal, having been summoned from the returning officer. In our opinion, the provisions of the Code of Civil Procedure do not bar the inspection of the papers in the custody of the Court. We are, therefore, satisfied that the Tribunal rejected the application for inspection of the ballot papers and the returns without any adequate reason for doing so.

Both Sarvasri Iqbal Ahmad and Har Govind Dayal, learned counsel for the parties, who appeared also before the Tribunal, stated that most of the authorities on which they were placing reliance before us were also cited before the Tribunal but the Tribunal did not notice them. All that the Tribunal did was to mention the following three cases at the far end of the judgment saying that its attention was drawn to them:

- (1) Case No. LXXIV Punjab North (M) 1924 Ghazanfar Ali v. Chaudhary Bahawal Bux and others.—Election Cases India and Burma (1920—35).
- (2) Hammend's Election Cases 1920—35 at 307 (K. V. Krishnaswami Nayakar v. A. Ramaswami Mudaliyar and other) p. 671—V. P. P. Pillai v. R. B. Venkatarama Ayyar and others at p. 137 (Bareilly city case).
- (3) (1952-53) 2 E.L.R. 51—R. S. Merconder v. S. Ramlingar:

In the first place, the Tribunal did not even notice the other cases which were placed before it. Secondly, it did not say as to what the three cases mentioned above laid down and whether it was following them or distinguishing them.

On behalf of the appellant *Bhim Sen v. Gopal* (11) was cited before us and the following passage from the judgment of the Supreme Court placed for our consideration:—

“Thus construed, the averment in the said paragraph also indicates that according to the plea of the appellant, respondent I could get void votes because of the failure of the returning officer to discharge his duty. In the context “could receive” really meant “did receive” and not “might have received”. In this connection it must be borne in mind that particulars in regard to the allegation of this kind could be more definitely supplied only after the ballot box is opened and not till then. Rule 138 provides for the production and inspection of election papers. Until the said papers are produced and inspected as provided by the said rule it would be difficult, if not impossible, for any party to allege affirmatively how many void votes had been counted in favour of the candidate declared to be duly elected. Considerations which apply to the allegations of misconduct specified in section 83(1) (b) would not be relevant in the case of the present allegations; and so, reading the original petition itself, we are satisfied that the material allegations had been made with sufficient clarity by the appellant.”

Rule 138 referred to by their Lordship is rule 93 now without there being any change in the language. Their Lordships were also considering a case relating to wrong inclusion and wrong exclusion of votes. The Supreme Court clearly held that full details could be given only after the inspection of all the ballot-papers a conclusion to which we ourselves have arrived at. The election petition was mainly founded on the allegation relating to wrong exclusion of votes from the

count of the petitioner and wrong inclusion of votes in the count of the contesting respondent. That being so, we are of the opinion that it was imminently just to have allowed the inspection of the ballot papers and connected documents. We have already said earlier that the appellant even formally tendered all the ballot papers and asked the Tribunal to look into such of them as were to be pointed out of it. The Tribunal, however, refused to do even that.

In this connection we would like to reproduce the provisions of section 100(1) (d) of the Act which read as follows:

"100—*Grounds for declaring an election to be void.*—(1) Subject to the provisions of sub-section (2), if the Tribunal is of opinion—

(d) that the result of the election, in so far as it concerns a returned candidate, has been materially affected—

(iii) by the improper reception, refusal or rejection of any vote or the reception of any vote which is void, or

.....  
the Tribunal shall declare the election of the returned candidate to be void."

The law, therefore, is that an election petition can be presented on the ground that votes had been wrongly received or wrongly rejected, or that any vote was void. In other words, when such allegations are made, the matter is justiciable and it is the duty of the Tribunal to adjudicate in respect of that matter. Allegations like these can best be proved by placing the particular ballot-papers which, according to a party, have been wrongly received or wrongly rejected or which are void. It is not possible to do so unless an inspection is allowed. Consequently, we see no justification on the part of the Tribunal to have refused the inspection of the ballot papers and the returns.

Learned counsel for the respondent placed before us a large number of cases, both English and Indian. In England the relevant provision relating to inspection of ballot-papers and other election papers is section 87 of the English Representation of the People Act, 1949. It is not necessary to reproduce that provision. Suffice it to say that the law in England is that the ballot-papers can be opened at two stages, i.e., in the pre-election-petition stage and the post election-petition stage. Before the election petition is filed, they can be opened only with the permission of the House of Commons. After the petition has been filed, the same can be opened with the permission of the Election Tribunal. In our country, the law does not permit inspection at pre-election-petition stage and no such power has been conferred either on the Parliament or the local legislatures.

Learned counsel on the respondent placed reliance upon *Stewa v. Jelliffe* (12). We have carefully seen that judgment. In our opinion, it does not provide us any assistance in deciding the case before us.

The next case on which reliance was placed is *The Queen v. Peardsall* (13). This case is also not an authority for the proposition that inspection of ballot-papers should not be allowed even though one of the grounds or the sole ground in the petition is that votes had been wrongly excluded from the count of the petitioner and had wrongly been included in the count of the respondent.

These are two English cases that have been cited before us.

So far as Indian cases are concerned the first one relied upon is *Abdul Majeed v. Bhargavan* (14). The following passage from that judgment was placed before us by the learned counsel for the respondent:

"It remains to dispose of the third and the last contention advanced for the appellant, that the prayer in the election petition for a recount of the ballot papers ought to have been allowed by the Tribunal. Of course, the margin of difference in the votes secured by the appellant and the respondent was only 122. In the election petition the chief ground relied on for recount was that a large number of counting assistants employed by the Returning Officer were sympathisers of the Communist Party and since the candidates were allowed only one counting agent for three tables to supervise the sorting and counting of ballot papers, manipulation by interested counting assistants was not impossible.

(12) (1873-4) 9 Court of Common Pleas, p. 446.

(13) (1875-6) 1 QBD 452.

(14) AIR 1963 Kerala, p. 18 at p. 25.

The allegation against the counting assistants has not been sustained. On the evidence of the Returning Officer, it is seen that for every two counting assistants, to a table there was a supervisor, and the Officer himself was seated on a platform facing the counting assistants. The seating arrangement was according to a plan or diagram supplied with instruction by the Election Commissioner. On the same day, the same counting assistants had been engaged in the counting of ballot papers in the Kottarakara constituency where, as sworn to by P.W.S., a P.S.P. candidate had contested. What was pressed before us chiefly was, that the total number of counting agents sanctioned to a candidate was inadequate. Section 47 of the Act provides, that a contesting candidate may appoint one or more persons but not exceeding such number as may be prescribed to be present as his counting agent or agents at the counting of votes."

This case is clearly distinguishable. In the first place, it does not deal with an application made for the inspection of the ballot papers with a view to substantiate the allegations contained in the petition that some votes were wrongly excluded from those polled by the appellant and some others were wrongly included in these received by the contesting respondent. It was not a case where inspection was required in order to substantiate the allegations made in the election petition and give proof in respect of the facts in issue. In that case a prayer was made for the disposal of the petition on the ground that inasmuch as the number of counting agents of the petitioner were few and the counting agents belonged to a different political party chances of the results having been manipulated could not be excluded. The Kerala High Court was considering whether in view of the material on the record it should declare the void and not whether it should permit inspection before the hearing. Secondly, it was not a case where it had been definitely alleged that the result had been manipulated. All that had been alleged was that the possibility of its being manipulated could not be excluded. We are, therefore of the opinion that this case too is of no assistance to us in deciding the one before us.

Learned counsel then placed before us the case of *Vasaviiah v. Bachiah and others* (15). This case is only an authority for the proposition that a person challenging the result of the election on the ground of wrong inclusion or wrong exclusion of votes is not entitled to have a recount of the votes as a matter of absolute right. He would be entitled to it only if he makes out a *prima facie* case that the votes were wrongly excluded and wrongly included. In this case also, their Lordships were not concerned with an interim application made during the trial of the election petition for the inspection of the ballot papers in order to substantiate the allegations contained in the petition that votes had been wrongly excluded from these of the applicant and wrongly included in those of the respondent but were dealing with the question as to whether on the basis of the evidence on the record the petitioner was entitled to get the election declared void under section 100(1)(d) (iii) of the Act. We reproduce below the exact words used in the judgment: -

"The main complaint of the petitioner is that the returning officer did not allow him to appoint more than one counting agent, while under section 47 of the Act read with rule 54 of the Rules, he is entitled to appoint as many as 12 counting agents. . . . It is not the case of the petitioner that he appointed more than one counting agent and the Returning Officer refused them access to the place of counting."

While dealing with the question of recount, the learned Judges observed as follows:—

"It is next urged that the margin of difference between the petitioner and the first respondent is very narrow, being only 42 votes; and that the petitioner feels that if the votes are recounted he will be able to establish that he had obtained more votes (valid) than the first respondent. The petition does not disclose the reason why the petitioner feels that he is likely to have obtained more votes than the first respondent, nor does the evidence adduced by him disclose any *prima facie* case, to indicate that the petitioner is likely to have obtained more votes than the first respondent. It may be noted that neither the petitioner nor his agent raised any objection to any of the votes at the time of the counting. It is further necessary to notice that at

the request of the petitioner the returning officer retallied the votes before he declared the result. We have not been shown any reason why there should be a recounting, which term includes scrutiny of the votes polled. It appears as if the petitioner wants to try one more chance. But it is urged on behalf of the appellant that he has a right to demand a recount, as he has claimed the seat in his petition, irrespective of the fact whether he has made out a prima facie case or not. . . . It is well established law that a recount will only be granted in cases which are substantiated by specific instances and by reliable prima facie evidence. Where therefore, the application for recount, rested on a nebulous allegation of the agent about the counting or batches of votes twice over, the application was refused. (underlined by us).

It would be noticed that in the abovementioned case there was no definite allegation with regard to wrong exclusion or wrong inclusion of votes. All that was contended was that the margin between the votes of the parties being so thin it may be that a recount may disclose that the petitioner had secured the majority of votes polled. In other words, all that was contended was that since there was a difference of only 42 votes, the possibility of a wrong counting could not be excluded. Their Lordships after pointing out the circumstances that at the request of the petitioner in that case the returning officer had already recounted the votes before declaring the result of the election, there could be no justification for repeating the request specially when the petitioner was unable to show as to why he thought that there had been a wrong counting. Actually this case clearly contemplates the possibility of a recount if there is prima facie evidence justifying such a course. No case has been brought to our notice, decided by any of the Indian High Courts, or by the Supreme Court where an inspection was prayed for in order to substantiate the allegations made in the petition and was refused on the ground that no oral evidence had been led in order to show that some votes had really been wrongly excluded or included. It is trite that in all judicial proceedings only the best evidence on a point should be given. Whether or not a vote has been wrongly excluded or wrongly included can best be proved by a look at the ballot paper itself. To require a party to first bring in parole evidence to prove what can best be demonstrated by a look at the ballot paper itself, in our opinion, is neither required by the law nor rules of practice. All inspections must precede the hearing of the case. Inspections should not normally follow the hearing.

Under the circumstances, we are of the opinion that the request made by the learned counsel for the appellant for the inspection of the ballot papers for the lawful purpose of placing before the Tribunal such of the ballot papers which in his opinion had wrongly been included in the votes of the contesting respondent and had wrongly been excluded from those of the appellant should not have been refused.

We have already said above that the Tribunal neither permitted the appellant's counsel to inspect the ballot papers and connected documents nor looked into them itself even though all of them were tendered in evidence before it and were available in the court. For the reasons mentioned above, we allow the appeal, set aside the order passed by the Election Tribunal dismissing the election petition filed by the appellant and remand the case to the Election Tribunal, Lucknow, for retrial. The Tribunal shall give a reasonable opportunity to both the parties to inspect the ballot papers and other connected documents subject to the directions which are given below:—

- (1) The inspection must be made only between the notified hours of which prior notice has been given to the parties' counsel.
- (2) The inspection must be made in the presence of the Munsarim and no other junior officer.
- (3) At the time of making the inspection neither party should be allowed to handle any ballot papers.
- (4) At one time only one bundle of ballot papers should be opened.
- (5) As soon as one bundle has been inspected, it should be sealed by the Munsarim in the presence of the parties' counsel such as are present and if both the parties' counsel are not present, the Munsarim will make a note as regards the party which is not represented. Further, the parties' counsel should also be asked to put their seals on the same bundle.
- (6) As a further precaution all the bundles or the ballot boxes, i.e. outer-containers must be sealed even before inspection by the Mun-

sarim and the parties' counsel if they are present. If any party's counsel is not present, a note to that effect should be made by the Munsarim at the time of sealing.

- (7) The inspection will be confined only to the ballot papers and form No. 16.

The parties will be entitled to produce such evidence as they consider necessary. In the circumstances of the case, we direct the parties to bear their own costs.

A substance of our decision shall be communicated to the Election Commission and the Speaker of the House of the People immediately and a copy of the order shall also be sent to the Election Commission and Election Tribunal, Lucknow, as soon as it is ready.

Dated 23rd July, 1963.

Sd./- J. U. BEG,  
Sd./- R. N. SHARMA.

[No. 82/74/62.]

By Order,

V. RAGHAVAN, Under Secy.

### MINISTRY OF HOME AFFAIRS

New Delhi, the 19th September 1963

**S.O. 2738.**—In exercise of the powers conferred by entry 3(c) of Schedule I annexed to the Ministry of Home Affairs Notification No. 15/13/59-(V)-P.IV, dated the 13th July 1962 (GSR No. 991, published in the Gazette of India Part II, Section 3, sub-section (ii) dated the 28th July 1962), the Central Government is pleased to specify Shrimati Kumud Kumari, Rani Sahiba of Bihat, wife of the Ruler of Bihat, for the purpose of that entry and directs that the exemption shall be valid in respect of one 12 bore gun, one rifle and one pistol/revolver only.

[No. 16/20/62-P.IV.]

L. I. PARIJA, Dy. Secy.

### MINISTRY OF EXTERNAL AFFAIRS

New Delhi, the 28th September 1963

**S.O. 2739.**—In pursuance of clause (1) of article 239 of the Constitution, the President hereby directs that the Administrator of Pondicherry shall, subject to the control of the President and until further orders, exercise the powers, and discharge the functions, of the Central Government under the Indian Trade Unions Act, 1926 (16 of 1926), as extended to Pondicherry under the Pondicherry (Laws) Regulation, 1963 (7 of 1963) within the territory of Pondicherry.

[No. GII(POND)119/21/63.]

C. S. AHLUWALIA, Under Secy.

### MINISTRY OF FINANCE

(Department of Economic Affairs)

New Delhi, the 19th September 1963

**S.O. 2740.**—In exercise of the powers conferred by sub-section (2) of section 8 of the Provident Funds Act, 1925 (19 of 1925), the Central Government hereby directs that the provisions of the said Act shall apply to the Provident Funds established for the benefit of the employees of the Institute of Economic Growth, Delhi.

[No. 5(3)-P/63.]



**S.O. 2741.**—In exercise of the powers conferred by sub-section (3) of section 8 of the Provident Funds Act 1925 (19 of 1925), the Central Government hereby directs that the name of the following institution shall be added to the Schedule to the said Act, namely—"Institute of Economic Growth, Delhi."

[No. 5(3)-P/63.]

**S. R. SANKARAN**, Under Secy.

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**(Department of Economic Affairs)**

*New Delhi, the 20th September 1963*

**S.O. 2742.**—In exercise of the powers conferred by section 53 of the Banking Companies Act, 1949 (10 of 1949), the Central Government, on the recommendation of the Reserve Bank of India, hereby declares that the provisions of section 9 of the said Act shall not apply to the Salem Bank Ltd., Salem, in respect of the property held by it in Papiash Lane, Lalbagh, Chickmavalli, Bangalore City, till the 2nd September, 1964.

[No. F.15(29)-BC/63.]

**S.O. 2743.**—In exercise of the powers conferred by section 53 of the Banking Companies Act, 1949 (10 of 1949), the Central Government on the recommendation of the Reserve Bank of India, hereby declares that the provisions of section 9 of the said Act shall not apply to the Tanjore Permanent Bank Ltd., Tanjore in respect of the property held by it at Cuddalore, till the 13th August, 1965.

[No. F. 15(28)-BC/63.]

**B. J. HEERJEE**, Under Secy.

## (Department of Economic Affairs)

New Delhi, the 21st September 1963

S.O. 2744—Statement of the Affairs of the Reserve Bank of India, as on the 13th September 1963.

## BANKING DEPARTMENT

LIABILITIES	Rs.	ASSETS	Rs.
Capital paid up . . . . .	5,00,00,000	Notes . . . . .	11,88,10,000
Reserve Fund . . . . .	80,00,00,000	Rupee Coin . . . . .	2,06,000
National Agricultural Credit (Long Term Operations) Fund . . . . .	73,00,00,000	Small Coin . . . . .	2,55,000
National Agricultural Credit (Stabilisation) Fund . . . . .	8,00,00,000	National Agricultural Credit (Long Term Operations) Fund . . . . .	
		(a) Loans and Advances to :—	
		(i) State Governments . . . . .	27,15,95,000
		(ii) State Co-operative Banks . . . . .	9,27,91,000
		(iii) Central Land Mortgage Banks . . . . .	..
		(b) Investment in Central Land Mortgage Bank Debentures . . . . .	3,55,31,000
Deposits :—		National Agricultural Credit (Stabilisation) Fund . . . . .	
(a) Government . . . . .		Loans and Advances to State Co-operative Banks . . . . .	..
(i) Central Government . . . . .	74,54,29,000	Bills purchased and Discounted :—	
(ii) State Governments . . . . .	11,72,03,000	(a) Internal . . . . .	..
(b) Banks . . . . .		(b) External . . . . .	..
(i) Scheduled Banks . . . . .	89,97,84,000	(c) Government Treasury Bills . . . . .	106,42,83,000
(ii) State Co-operative Banks . . . . .	2,16,78,000	Balances held Abroad* . . . . .	7,74,05,000
(iii) Other Banks . . . . .	5,24,000	Loans and Advances to Governments** . . . . .	20,09,00,000
(c) Others . . . . .	158,97,83,000	Loans and Advances to :—	
Bills Payable . . . . .	25,09,22,000	(i) Scheduled Banks† . . . . .	1,02,35,000
Other Liabilities . . . . .	20,27,68,000	(ii) State Co-operative Banks†† . . . . .	132,25,09,000
		(iii) Others . . . . .	1,73,05,000
		Investments . . . . .	203,56,40,000
		Other Assets . . . . .	24,06,26,000
	Rupees		Rupees
	548,80,91,000		548,80,91,000

\*Includes Cash and Short-term Securities.

\*\*Excluding Loans and Advances from the National Agricultural Credit (Long Term Operations) Fund.

† Includes Rs 55,00,000 advanced to scheduled banks against usance bills under Section 17(4) (c) of the Reserve Bank of India Act.

†† Excluding Loans and Advances from the National Agricultural Credit (Long Term Operations) Fund and the National Agricultural Credit (Stabilisation) Fund.

Dated the 18th day of September 1963

An Account pursuant to the Reserve Bank of India Act, 1934, for the week ended the 13th day of September, 1963.

ISSUE DEPARTMENT

LIABILITIES	Rs.	Rs.	ASSETS	Rs.	Rs.
Notes held in the Banking Department	11,88,10,000		Gold Coin and Bullion :—		
Notes in circulation	2224,41,35,000		(a) Held in India	117,76,10,000	
			(b) Held outside India	..	
Total Notes issued		2236,29,45,000	Foreign Securities	89,46,14,000	
			TOTAL		207,22,24,000
			Rupee Coin		121,86,26,000
			Government of India Rupee Securities		1907,20,95,000
			Internal Bills of Exchange and other commercial paper		..
TOTAL LIABILITIES		2236,29,45,000	TOTAL ASSETS		2236,29,45,000

Dated the 18th day of September, 1963

P. C. BHATTACHARYYA,  
Governor.

[No. F. 3(2)-BC/63].

A. BAKSI, Jt. Secy.

## (Department of Revenue)

## CUSTOMS

*New Delhi, the 28th September 1963*

**S.O. 2745.**—In exercise of the powers conferred by clause (b) of section 7 read with sub-section (3) of section 160 of the Customs Act, 1962 (52 of 1962), the Central Government hereby makes the following further amendment to notification No. 22-Customs dated the 2nd February, 1952, namely:—

In the Schedule annexed to the said notification, under the heading "C-Land Customs Areas under the jurisdiction of the Collector of Land Customs, Shillong", under the sub-heading "Agartala II Circle", the existing entry "Manu" in column 1 and the corresponding entries relating thereto in column 2 shall be omitted.

[No. 215/F. No. 2/6/63-L.C.I.]

J. BANERJEE, Dy. Secy.

## (Department of Economic Affairs)

*New Delhi, the 23rd September 1963*

**S.O. 2746.**—The Central Government, having considered the application for renewal of recognition made under section 3 of the Securities Contracts (Regulation) Act, 1956 (42 of 1956) by the Hyderabad Stock Exchange Limited, Hyderabad, and being satisfied that it would be in the interest of the trade and also in the public interest so to do, hereby grants, in exercise of the powers conferred by section 4 of the said Act, recognition to the said Exchange under the said section 4 for a further period of five years commencing from the 29th September, 1963 and ending with the 28th September, 1968, in respect of contracts in securities subject to the condition stated herein below and such other conditions as may be prescribed or imposed hereafter.

## CONDITION

Dealings shall not be permitted on the Exchange except for spot delivery and for delivery and payment within a period not exceeding 14 days following the date of the contract.

[No. F. I/2/SE/EAD/63.]

S. S. SHARMA, Under Secy.

## CENTRAL BOARD OF REVENUE

## INCOME-TAX

*New Delhi, the 19th September 1963*

**S.O. 2747.**—In exercise of the powers conferred by sub-section (1) of section 122 of the Income-tax Act, 1961 (43 of 1961) and in supersession of all the previous notifications in this regard, the Central Board of Revenue hereby directs that the Appellate Assistant Commissioners of Income-tax of the ranges specified in column 1 of the Schedule below, shall perform their functions in respect of all persons and incomes assessed to income-tax or super-tax in the Income-tax Circles, Wards and Districts specified in the corresponding entry in column 2 thereof:—

## SCHEDULE

Range	Income-tax Circles, Wards and Districts
1	2
Amritsar,	<ol style="list-style-type: none"> <li>1. All Income-tax Circles, Wards or Districts having head-quarters at Amritsar except Special Survey Circle Amritsar.</li> <li>2. Special Survey Circle, Amritsar (in respect of persons who have their principal place of business in or reside in the District of Amritsar).</li> </ol>

Range Income-tax Circles, Wards and Districts.

1

2

Jullundur

1. All Income-tax Circles, Wards or Districts having head-quarters at—
  - (i) Jullundur.
  - (ii) Gurdaspur.
  - (iii) Hoshiarpur.
  - (iv) Chandigarh.
2. Special Survey Circle, Amritsar (in respect of persons who have their place of business in or reside in the Districts of Jullundur, Gurdaspur & Hoshiarpur).
3. Special Survey Circle, Patiala (in respect of persons who have their place of business in or reside in the jurisdiction of the Income-tax Circle Chandigarh and Salary Circle, Jullundur).

Ludhiana

1. All Income-tax Circles, Wards or Districts having head-quarters at—
  - (i) Ludhiana.
  - (ii) Ferozepur.
  - (iii) Srinagar.
  - (iv) Jammu.
2. Special Survey Circle, Amritsar (in respect of persons who have their principal place of business in or reside in the Districts of Ludhiana and Ferozepur).

Patiala

1. All Income-tax Circles, Wards or Districts having head-quarters at—
  - (i) Patiala except Special Survey Circle, Patiala.
  - (ii) Sangrur.
  - (iii) Simla.
  - (iv) Bhatinda.
2. Special Survey Circle, Patiala (in respect of persons who have their place of business in or reside in the Districts of Patiala, Sangrur, Simla and Bhatinda).

Rohtak

1. All Income-tax Circles, Wards or Districts having head-quarters at—
  - (i) Rohtak.
  - (ii) Hissar.
  - (iii) Karnal.
  - (iv) Gurgaon.
2. Special Survey Circle, Patiala (in respect of persons who have their principal place of business in or reside in the Districts of Rohtak, Hissar, Karnal and Gurgaon).

Ambala

1. All Income-tax Circles, Wards or Districts having head-quarters at Ambala.
2. Special Survey Circle, Patiala (in respect of the persons who have their place of business in or reside in the District of Ambala).

Where an Income-tax Circle, Ward or District or part thereof stands transferred by this notification from one Range to another Range, appeals arising out of assessments made in that Income-tax Circle, Ward or District or part thereof and pending immediately before the date of this notification before the Appellate Assistant Commissioner of Range from whom that Income-tax Circle, Ward or

District or part thereof is transferred shall, from the date this notification shall take effect, be transferred to and dealt with by the Appellate Assistant Commissioner of the Range to whom the said Circle, Ward or District or part thereof is transferred.

This notification shall come into force on 23rd September, 1963.

*Explanatory Note*

The amendments have become necessary on account of the reorganisation of the Appellate Ranges in the charge of the Commissioner of Income-tax, Patiala.

(The above note does not form a part of the notification but is merely a clarificatory).

[No. 61 (F. No. 50/14/63-IT)]

**CORRIGENDUM**

*New Delhi, the 19th September 1963*

**S.O. 2748.**—In the Board's Notification No. 58 dated 2nd September, 1963 published in the Part II, Section 3(ii) of the Gazette of India as S.O. No. 2614 dated 14th September 1963 for the date "9th September, 1963" appearing in the last line of the notification, read "23rd September, 1963".

[No. 62 (F. No. 50/15/63-IT.)]

J. RAMA IYER, Under Secy.

**CENTRAL EXCISE COLLECTORATE, ALLAHABAD**

*Allahabad, the 4th September, 1963.*

1ST AMENDMENT TO NOTIFICATION NO. 6/CE/63, DATED 6-5-1963.

**S.O. 2749.**—In the Table annexed to this Collectorate Notification No. 6/CE/63, dated 6th May, 1963, issued in exercise of the powers under rule 5 and published in Part II, Section 3, sub-section (ii) of the Gazette of India, the following amendment shall be made:—

- (1) Rules 59 and 183 occurring in column 3 of the aforesaid Table against serial number 1 indicating powers of Assistant Collector, shall be deleted.
- (2) Rule 59 occurring in column 3 of the aforesaid Table against Sl. No. 2 indicating powers of Superintendent shall be deleted.

[No. 12/CE/63.]

S. P. KAMPANI, Collector.

**CENTRAL EXCISE COLLECTORATE, HYDERABAD-DECCAN**

*Hyderabad-Deccan, the 31st August, 1963*

**S.O. 2750.**—In exercise of the powers conferred by rules 199 and 200 of the Central Excise Rules, 1944, and in supersession of the previous notification No. 6/54 issued in this regard, I hereby empower the Central Excise officers of the Central Excise Collectorate, Hyderabad specified in column I of the subjoined table to exercise within their jurisdictions, powers conferred by the provisions of the said Rules, enumerated in column II of the Table, subject to the limitations set out in column III.

Range of Officer	Rules	Limitations
(I)	(II)	(III)
1 All officers of the rank of Inspectors and above : . . .	199 & 200	
2 Sub-Inspectors . . . .	Do.	The powers under Rule 200 should be exercised in respect of unmanufactured products only.

[No. 4/63.]

R. C. MEHRA, Collector.

**OFFICE OF THE ASSTT. COLLECTOR OF CENTRAL EXCISE, I.D.O.,  
BANGALORE.**

*Bangalore, the 10th September, 1963.*

**AUCTION NOTICE UNDER RULE 161 OF THE CENTRAL EXCISE RULES, 1944.**

**S.O. 2751.**—Whereas a sum of Rs. 90,944-09 is due from Shri B. H. Abdul Khadar, L. 5 No. 35/50, Thirthahalli, Shimoga District, and to recover the said dues, notices under Rule 161 of the Central Excise Rules, 1944 were issued to the said Shri B. H. Abdul Khadar by the Superintendent of Central Excise, Davanagere in his letter C. No. V(a) 24/37/62, dated 28th May, 1963 detaining 36,962,819 Kg. of biri tobacco i.e., all the tobacco lying in the warehouse of Shri B. H. Abdul Khadar; and Shri B. H. Abdul Khadar was informed in the said notices that if he fails to honour the demands on or before 15th June, 1963, the tobacco detained under the said notices will be sold by public auction;

Now, the said Shri B. H. Abdul Khadar has failed to honour the demands issued within the stipulated date viz., 15th June, 1963.

The public are hereby informed that the said 36,962,819 Kg. of biri tobacco lying in the warehouse of Shri B. H. Abdul Khadar, L. 5 No. 35/50, Thirthahalli will be sold by public auction by the Asstt. Collector of Central Excise, Bangalore.

Time of Auction: 2 P.M. Date of Auction: 20th October, 1963.

Place of Auction: Thirthahalli.

NOTE: The conditions of auction sale will be as per annexure.

ANNEXURE TO NOTIFICATION No. C. No. V(a)/24/387/62, DATED 10-9-1963.

**CONDITION OF AUCTION (ANNEXURE 'A')**

(i) The term "Government" wherever occurring in these conditions shall mean "The President of India".

(ii) The fact of bidding for a lot by a person will be held as his unqualified agreement to the following conditions of sale.

(iii) Only holder of an L.5 (Tobacco) or holder of L.2 (Tobacco) may bid at the auction.

(iv) The amount of excise duty (if any, which will be announced at the auction) shall be paid in addition to the amount of the successful bid; however, any purchaser of unmanufactured tobacco who is the holder of an L.5 licence may be allowed the option of warehousing the goods without payment of duty in the ordinary manner. In the case of cigars and cheroots, the duty will be paid in the form of the prescribed excise duty labels.

(v) A person bidding on behalf of another person should produce a written authority from such other person authorising him to act on behalf of such other person in all matters at the auction sale. In the absence of such authority, the bid, if accepted, shall be registered in the name of the actual bidder and he shall be responsible to the Government for any loss which might accrue to Government as a result of his action without proper authority. In the event of any dispute between bidders, the dispute shall be decided by the Collector of Central Excise, Bangalore, and the lot or lots in question re-auctioned at his discretion. His decision as to such acceptance shall be final and binding on all persons offering bids at the auction.

(vi) The Government of India reserves the right of withdrawing from the sale all or any part of the goods mentioned in the auction list without any notice and without assigning any reason therefor.

(vii) The goods will not be sold below a reserve price which will be fixed by the Government and kept secret. Ordinarily all sales shall be made to the highest bidder. Government, however, reserves the right to accept or reject the highest or any bid without assigning any reason therefor.

(viii) The successful bidder must deposit an advance of 25 per cent. of the bid amount or Rs. 2,000 whichever is less, immediately after the bid is accepted. This amount may either be deposited in the Treasury on the same day or if for any reason this be not possible, be paid on the spot in cash to the officer accepting the bid.

The balance of the amount of the bid and (except in the case of cigars and cheroots) the duty leviable on the goods, if any, should be deposited within a week and the copies of the receipted chalan produced before the officer concerned. If the bidder fails to deposit the original advance of 25 per cent of the bid amount or Rs. 2,000 whichever is less or the balance of the bid amount inclusive of duty, if any, within the above mentioned period, sale shall be treated as cancelled and the original advance referred to above if already paid shall be forfeited to the Government and the goods shall be resold as and when the Government think fit without any notice to the bidder at his risk and expense. Any loss or expenses incurred on such resale shall be entitled to recover from the bidder the cost of storage, warehousing or removal of the goods, and any expenses incurred in connection with the resale or attempted resale. Any gain or any resale as aforesaid shall belong to the Government and the bidder shall not be entitled to any gain on such resale made on his default. This will be in addition to any action that may be authorised by law.

(ix) All purchases, sales and other Central, State or local taxes, if any, that may be levied shall be payable by the bidder, inclusive of the sale value.

(x) The goods shall be and remain in every respect at the risk of the bidder from the date of the acceptance of his bid and the Government shall not be under any liability for the safe custody or the preservation thereof from the date of acceptance.

(xi) The goods are sold as they are, where they are. The whole of the lot or lots shall be taken from the site with all faults and errors in description or otherwise. Quantities, qualities, sizes, measurements, number and weights as stated in the notice are approximate and no warrant or guarantee shall be implied. Goods are sold on the assumption that bidders have inspected the lots and know what they are buying whether they have inspected them or not. The principle of *caveat emptor* will apply and no complaint will be entertained.

(xii) Purchasers will not be allowed to resell the goods in the auction premises and any such resale will not be recognised and delivery orders will be made out in the name of actual purchaser only.

(xiii) All lots are sold ex-depot and purchasers should make their own arrangements for packing and transport.

(xiv) Deliveries will be given during working hours on all working days. For any lot or portion of lot remaining uncleared after the time allowed in the condition of sale, viz., 3 working days from the date of payment of the full purchase money, the lot will be treated as abandoned and the security deposited and all sums paid for the lot will be forfeited to the Government without any reference to the purchaser and the purchaser will not be entitled to any claim. If any lot is not removed within the time specified, the Government may resell the lot or portion thereof at the bidder's risk and expense. In addition to any loss that may be suffered Government may also recover from the parties concerned a charge on account of storage space at the rate of 1 per cent per diem on the auction sale price of the said lot or lots or portion thereof till the date of the resale (inclusive).

(xv) Without prejudice to the foregoing right to resell, the Government of India may permit the purchaser to remove the said lot or lots or portion thereof within an extended period and on payment in advance of charges on account of storage space calculated as hereinbefore mentioned.

(xvi) The buyer shall be responsible for any damage that may be done to the premises in taking down or removing the lot or lots bought by him. The Collector of Central Excise, Bangalore, or his representative may at his option arrange to make good such damage and the buyer shall pay the same on demand.

(xvii) Wherever any claim for the payment of a sum of money to the Government arises out of or under this auction sale against the buyer, Government shall without prejudice to any other remedy be entitled to deduct such sum of money from any sum then due or which at any time thereafter may become due to the buyer under any contract with Government. If this is not sufficient to cover the full amount recoverable the buyer shall pay to Government on demand the balance remaining due.

(xviii) All disputes and differences arising out of or in any way touching or concerning this agreement whatsoever, shall be referred to the sale arbitration of the Collector of Central Excise, Bangalore, or any person nominated by him. It will be no objection that the arbitrator is a Government servant, that he had to deal with the matter to which the agreement relates, and that in course of his



duties as such Government servant has expressed any views on all or any of the matters in dispute or difference. The award of such Arbitrator shall be final and binding on the parties to this Agreement. It is a term of this agreement that in the event of such Arbitrator to whom the matter is originally referred being transferred or vacating his office by resignation or otherwise or becoming unable to act for any reason, the Collector of Central Excise, Bangalore, at the time of such transfer, vacation of office or inability to act, shall appoint another person to act as Arbitrator in accordance with the terms of this agreement. Such persons shall be entitled to proceed with the reference from the state at which it was left by his predecessor. The arbitrator may also from time to time with the consent of the parties enlarge the time for making the award. It is also a term of this agreement that no person other than a person nominated by the Collector of Central Excise, Bangalore, shall act as Arbitrator and, if for any reason that is not possible, the matter is not to be referred to arbitration at all. The venue of arbitration and the assessment of costs incidental to the reference and award shall be at the discretion of the Arbitrator.

(x/x) No cheques will be accepted at the time of sale by way of advance. Prospective purchasers are, therefore, requested to bear this condition in mind when deciding to attend the auction.

"COPY"

[C. No. Va/24/387/62.]

T. MASCARENHAS.

Assistant Collector.

## MINISTRY OF INDUSTRY

*New Delhi, the 18th September 1963*

**S.O. 2752.**—In exercise of the powers conferred by Section 72 of the Indian Patents and Designs Act, 1911 (2 of 1911), the Central Government hereby appoints the Director, Central Mechanical Engineering Research Institute, Mahatma Gandhi Avenue, Durgapur-9, for the purpose of the said Section and makes the following further amendment in the notification of the Government of India in the late Ministry of Commerce and Industry No. S.R.O. 681 dated the 23rd March, 1955, namely:—

In the said notification, after item No. (26) and the entry relating thereto, the following item and entry shall be added namely:—

"(27).—The Director, Central Mechanical Engineering Research Institute, Mahatma Gandhi Avenue, Durgapur-9".

[No. 16(15)/63-Patents.]

HARGUNDAS, Under Secy.

## ORDER

*New Delhi, the 20th September 1963*

**S.O. 2753/IDRA/6/4.**—In exercise of the powers conferred by section 6 of the Industries (Development and Regulation) Act, 1951 (65 of 1951) read with rule 5(1) of the Development Councils (Procedural) Rules, 1952, the Central Government hereby appoints, till the 18th August, 1965, the following persons to be members of the Development Council established by the Order of the Government of India in the Ministry of Industry No. S.O. 2378, dated the 19th August, 1963, for the scheduled industries engaged in the manufacture or production of Machine Tools and directs that the following amendments shall be made in the said Order, namely:—

In the said Order, after entry No. 25 relating to Shri C. D. Dandekar, the following entries shall be inserted, namely:

26. Shri N. G. Nagesh, Manager, PTC, Okhla, New Delhi.

27. Shri D. N. Gambhir, M/s. National Machine Tools Industries, Sahipur, Q/S Industrial Town, Jullundur City.

[No. 1(9)/L. Pr./63.]

**CORRIGENDUM**

*New Delhi, the 18th September 1963*

**S.O. 2754.**—In the Ministry of Industry Order No. S.O. 2531 dated the 28th August, 1963, published in Part II, Section 3, Sub-Section (ii) of the Gazette of India, dated the 7th September, 1963:—

*For* 11, Shri J. M. Dodeja, M/s. Devidayal Tube Industries (P) Ltd., Devidayal Nagar, Kanjur Village, Bhandup, Bombay-78.

*Reqd* 11. Shri L. C. Dodeja, M/s. Devidayal Tube Industries Ltd., Devidayal Nagar, Bhandup, Bombay-78.

[No. 1(7)/L.Pr./63.]

**S. P. KRISHNAMURTHY, Under Secy.**

**MINISTRY OF INTERNATIONAL TRADE**

*New Delhi, the 16th September 1963*

**S.O. 2755.**—The following amendment made by The Saurashtra Oils and Oilseeds Association Limited, Rajkot, to its Articles of Association in exercise of the powers conferred on it by sub-section (1) of the section 9A of the Forward Contracts (Regulation) Act, 1952 (74 of 1952) is hereby published for general information, the same having been approved by the Central Government as required by sub-section (2) of that section, namely:—

In the Articles of Association of The Saurashtra Oils and Oilseeds Association Limited, Rajkot, for Article 35, the following Articles shall be substituted, namely:—

“35. The Board shall consist of not more than 25 Directors constituted as under:—

- (i) Not more than *eighteen* Directors to be elected by the members of the respective Rings at the rate of 3 Directors per each Ring from among the members of the respective Rings, the election of such Directors being held at the respective Rings at least seven days before the date of the next Annual General Meeting. The Directors so elected shall hold office from after the conclusion of the said Annual General Meeting.
- (ii) One Director to be appointed by the Central Government as its representative. He shall hold office as the Director for the period for which he has been appointed.
- (iii) Not more than 3 Directors to be appointed by the Central Government to represent interests not directly represented through the membership of the Association. They shall hold office as Directors for the period for which they have been appointed.
- (iv) Not more than 3 Directors, whether members of the Association or not, who may be co-opted by the Directors elected or appointed as per

(i), (ii) and (iii) above, provided that the co-option of the Directors shall be made by a majority of not less than  $\frac{3}{4}$  of Directors present, the number of Directors present being not less than 15 or  $\frac{2}{3}$  of the total strength of the Board, after deducting therefrom the number of Directors, if any whose seats may be vacant at the time and ignoring fraction, whichever is less. The co-opted Directors, if any, shall retire at the conclusion of the First Annual General Meeting held next after their co-option.

"35A. Notwithstanding anything contained in Article 35, the Directors who were elected by the members of the Association at the Sixth Annual General Meeting shall continue to hold office until the conclusion of the Ninth Annual General Meeting."

[No. 33(7)-Com(Genl)(FMC)/63.]

M. L. GUPTA, Under Secy.

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## ORDER

### EXPORT TRADE CONTROL

*New Delhi, the 28th September 1963*

**S.O. 2756.**—In exercise of the powers conferred by section 3 of the Imports and Exports (Control) Act, 1947 (18 of 1947), the Central Government hereby makes the following further amendment to the Exports (Control) Order, 1962, namely:—

In Part B of Schedule I to the said Order—for item 10, the following shall be substituted:—

"10. Scrap of metals other than ferrous scrap containing more than

0.50 per cent nickel, or

0.20 per cent molybdenum, or

1.00 per cent tungsten, or

0.20 per cent vanadium, or

1.00 per cent cobalt."

[No. E(C)O.1962/AM(34).]

H. K. SINGH, Dy. Secy.

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## MINISTRY OF MINES & FUEL

*New Delhi, the 20th September 1963*

**S.O. 2757.**—Whereas by a notification of the Government of India in the Ministry of Mines and Fuel S.O. No. 1691, dated the 14th June, 1963 under sub-section (1) of section 3 of the Petroleum Pipelines (Acquisition of Right of User in Land) Act, 1962 (50 of 1962), the Central Government declared its intention to acquire the right of user in the lands specified in the Schedule appended to that notification for the purpose of laying pipelines;

And, whereas the competent authority has, under sub-section (1) of section 6 of the said Act, submitted report to the Central Government;

And, whereas, the Central Government has, after considering the said report, decided to acquire the right of user in the lands specified in the Schedule appended to this notification;

Now, therefore, in exercise of the powers conferred by sub-section (1) of section 6 of the said Act, the Central Government hereby declares that the right of user in the said lands specified in the Schedule appended to this notification is hereby acquired for laying the pipelines.

#### SCHEDULE

State—West Bengal Dist. ————— Burdwan Thana—Kulti

Village	Survey No. (Plot No.)	Extent (Area)	Village	Survey No. (Plot No.)	Extent (Area)
Kalikapur, J.L. 47	45	·16	Chalbalpur J.L. 19— <i>contd.</i>		
	46	·24		1763	·14
	52	·19		1764	·16
	54	·43		1766	·02
	55	·18		1788	·05
	56	·39		1789	·04
	187	·49		1796	·01
	188	·15		1797	·08
				1798	·11
				1799	·18
Chalbalpur, J.L. 19	1614	·02		1803	·09
	1621	·14		1804	·07
	1622	·08		1806	·02
	1623	·09			
	1624	·10	Tharra, J.L. 46	210	·24
	1625	·04		251	·07
	1631	·005		252	·38
	1632	·10		253	·14
	1633	·02		254	·10
	1634	·01		255	·02
	1636	·08		259	·01
	1637	·02		264	·06
	1638	·03		265	·08
	1639	·04		266	·02
	1640	·07		267	·16
	1641	·05		281	·02
	1645	·08		282	·04
	1648	·20		283	·01
	1649	·06		286	·08
	1702	·05		287	·01
	1703	·04		288	·06
	1706	·01		294	·04
	1707	·03		295	·10
	1708	·08		297	·05
	1709	·02		300	·03
	1710	·14		301	·08
	1711	·10		302	·04
	1713	·09		303	·09
	1714	·19		305	·04
	1740	·04		306	·02
	1743	·08		323	·12
	1744	·09		324	·12
	1745	·08		329	·13
	1751	·07		332	·05
	1752	·08		333	·22
	1756	·08		391	·02
	1760	·09		392	·13
	1761	·09		400	·005
	1762	·02		401	·04

Village with thana No.	Survey No. (Plot No.)	Extent in acre.	Village with thana No.	Survey No. (Plot No.)	Extent in acre.
Bhairra, J.L. 46— <i>contd.</i>	468	54	Bhairra, J.L. 46— <i>contd.</i>	575	03
	470	03		576	06
	471	54		577	20
	526	06		578	07
	540	20		579	09
	541	07		580	08
	543	02		581	01
	544	01		582	14
	545	08		583	06
	546	06		585	01
	547	30		656	04
	548	00		657	15
	559	14		662	67
	560	05		663	01
	564	02			

[No. 31/56/63-ONG.]

New Delhi, the 21st September 1963

S.O. 2758.—Whereas it appears to the Central Government that it is necessary in the public interest that for the transport of petroleum between Barauni Refinery in Bihar State to the Haldia Port in Calcutta in West Bengal State, a pipeline should be laid by the Indian Refineries Limited and that for the purpose of laying such pipeline, it is necessary to acquire the right of user in the land described in the Schedule annexed hereto;

2. Now, therefore, in exercise of the powers conferred by sub-section (1) of section 3 of the Petroleum Pipelines (Acquisition of Right of User in Land) Act, 1962 (50 of 1962), the Central Government hereby declares its intention to acquire the right of user therein.

3. Any person interested in the said land may, within 21 days from the date of this notification, object to the laying of the pipelines under the land to the Competent Authority—Special Land Acquisition Officer, C/o Indian Refineries Limited, P.O. Hathidah, District Patna. Every person making such an objection shall also state specifically whether he wishes to be heard in person or by a legal practitioner.

#### SCHEDULE

State—Bihar			District—Santhal Parganas			Thana—Dcoghar		
Village with thana No.	Survey No. (Plot No.)	Extent in acre	Village with thana No.	Survey No. (Plot No.)	Extent in acre	Village with thana No.	Survey No. (Plot No.)	Extent in acre
Raydi No. 122.	575	0.335		656	0.005			
	571	0.030		717	0.010			
	451	0.410		15	0.640			
	577	0.040	Ghorlas No. 197	83A	0.235			
	450	1.360		82	0.080			
	655	0.875		83B	0.110			
	697	0.080		83C	0.090			
	695	0.110		74	0.270			
	696	0.090		75A	0.080			
	692	0.050		75B	0.110			
	691	0.060		73	0.430			
	718	0.080		70	0.280			
	720	0.070		65A	0.200			
	724	0.008		65B	0.140			
	719	0.410		68A	0.050			

Village with thana No.	Survey No. (Plot No.)	Extent in acre	Village with thana No.	Survey No. (Plot No.)	Extent in acre
Ghorlas No. 197— <i>contd.</i>	68B	0.110	Rohini No 196— <i>contd.</i>	506	0.035
	69	0.007		456	0.440
	67	0.035		458	0.015
	66	0.200		2105	0.160
	65C	0.310		460	0.170
Rohini No. 196	8	0.200		461	0.160
	9	0.060		1937	0.120
	10	0.030		1936	0.070
	392A	0.080		2935	0.070
	11	0.090		1934	0.040
	392B	0.040		1929	0.045
	384	0.005		1930	0.010
	382A	0.060		1932	0.070
	383	0.130		1931	0.150
	382B	0.040		1926	0.030
	385A	0.060		1925	0.160
	382C	0.130		1951	0.020
	385B	0.150		1952	0.065
	371	0.060		2372A	0.080
	372	0.180		1923	0.200
	369	0.170		448	0.015
	406	0.050		1920	0.220
	368	0.015		1918	0.210
	409	0.460		2372B	0.070
	410	0.190		3115	0.020
	411	0.130		2549	0.070
	426	0.055		2548	0.050
	417	0.050		2547	0.120
	416	0.060		2550	0.060
	418A	0.140		2551	0.040
	419	0.065		3180	0.070
	418B	0.100		2552	0.130
	435	0.180		2553	0.040
	436	0.005		2554	0.450
	537	0.005		2555	0.030
	437	0.070		2556	0.210
	438	0.240		2568	0.450
	441	0.090		2567	0.130
	442	0.170		2569	0.070
	446	0.120		2571	0.340
				2570	0.080
				2585	0.370

[No. 31/57/63-ONG.]

B. SUBBA RAO, Under Secy.

New Delhi, the 19th September 1963

**S.O. 2759.**—Whereas it appears to the Central Government that coal is likely to be obtained from the land mentioned in the Schedule hereto annexed;

Now, therefore, in exercise of the powers conferred by sub-section (1) of section 4 of the Coal Bearing Area (Acquisition and Development) Act, 1957 (20 of 1957), the Central Government hereby gives notice of its intention to prospect for coal therein.

SCHEDULE

Drg. No. Rev/46/63  
Dated 23-4-1963.

Jarangdih North-Block

(Showing lands notified for prospecting)

Sl. No.	Village	P.S.	Thana No.	District	Area	Remarks
1	Gobindpur	Berno	15	Hazaribagh		Part
2	Armo		11			"

Total area : 1350.00 acres (Approx)  
Or 546.75 Hectares (Approx)

**BOUNDARY DESCRIPTION:**

A—B line passes along the part left bank of River Kunar in villages Armo and Gobindpur and meets at point 'B'.

B—C line passes along the part northern boundary of Railway line in village Gobindpur and meets at point 'C'.

C—D line passes through village Gobindpur and meets at point 'D'.

D—A line passes through villages Gobindpur and Armo and meets at point 'A'.

The maps of the area can be inspected in the Office of the Deputy Commissioner, Hazaribagh or in the Office of the National Coal Development Corporation Ltd. (Revenue Section), Ranchi, Darbhanga House, Ranchi.

[No. C2-20(21)/63.]

**S.O. 2760.**—Whereas by the Notification of the Government of India, in the Ministry of Mines and Fuel S.O. No. 1495, dated the 21st May, 1963 under sub-section (1) of section 7 of the Coal Bearing Areas (Acquisition and Development) Act, 1957 (20 of 1957), the Central Government gave notice of its intention to acquire lands and mining rights in the locality specified in the Schedule appended to that notification;

And whereas, the Central Government after considering the competent authority's report and after consulting the Government of Madhya Pradesh, is satisfied that—

- the land measuring 162.00 acres (approximately) or 65.61 Hectares (approximately) described in Schedule A appended hereto; and
- the rights to mine, quarry, bore, dig and search for, win, work and carry away minerals in the land measuring 1394.00 acres (approx.) or 564.57 hectares (approximately) described in Schedule B appended hereto;

should be acquired;

Now, therefore, in exercise of the powers conferred by sub-section (1) of section 9 of the said Act, the Central Government hereby declares that the land measuring 162.00 acres or 65.61 hectares (approximately) described in the said Schedule and the rights to mine, quarry, bore, dig, and search for win, work and carry away minerals in the land measuring 1,394.00 acres or 564.57 hectares (Approximately) described in the said Schedule B are hereby acquired.

The plan of the area covered by this notification may be inspected in the Office of the Collector, Betul, (MP) or in the Office of the Coal Controller, 1, Council House Street, Calcutta or in the Office of the National Coal Development Corporation Limited (Revenue Section), Darbhanga House, Ranchi (Bihar).

## SCHEDULE-A

Drg. No. Rev/81/63  
Dated 4-8-1963.

All Rights					Showing lands acquired		
Sl. No.	Village	P.C. No.	Village No.	Tahsil	District	Area	Remarks
1	R. F.			Betul	Betul		Part
Total area : 162.00 acres (approximately) Or 65.61 hectares (Approximately)							

Plot Nos. acquired.

Part of Reserved forest

## BOUNDARY DESCRIPTION:

T—U—G—F—E—D—C lines pass through reserved forest and meeting at point 'C'.

C—M line passes through Reserved forest and meeting at point 'M'.

M—N line passes through Reserved forest and meeting at point 'N'.

N—O line passes through Reserved forest and meeting at point 'O'.

O—P line passes through Reserved forest and meeting at point 'P'.

P—Q line passes through Reserved forest and meeting at point 'Q'.

Q—R—S lines pass through Reserved forest and meeting at point 'S'.

S—T line pass through Reserved forest and meeting at point 'T'.

## SCHEDULE-B

Drg. No. Rev/81/63  
Dated : 4-8-1963.

## Mining Rights

(Showing lands where rights to mine, quarry, bore, dig and search for win, work and carry away minerals are acquired.)

Sl. No.	Village	P.S. No.	Village No.	Tahsil	Distt.	Area	Remarks
1	R.F.			Betul	Betul		Part
Total area : 1394.00 acres (Approximately) Or 564.57 hectares (Approximately)							

Plot Nos. acquired.

Part of Reserved forest

## BOUNDARY DESCRIPTION:

A—B—C lines pass through Reserved forest and meeting at point 'C'.

C—D—E—F—G—U—T lines pass through Reserved forest (which is also the common boundary of A.R. and M.R.) and meeting at point 'T'.

T—H line passes through Reserved forest and meeting at point 'H'.

K—I line passes through Reserved forest and meeting at point 'I'.

I—J line passes through Reserved forest and meeting at point 'J'.

J—K line passes through Reserved forest and meeting at point 'K'.



K—L line passes through Reserved forest and meeting at point 'L'.

L—A line passes through Reserved forest and meeting at point 'A'.

[No. C2-25(4)/61-Vol. II.]

New Delhi, the 20th September 1963

**S.O. 2761.**—Whereas by the notification of the Government of India in the Ministry of Mines and Fuel S.O. 1137, dated the 11th April, 1963, under sub-section (1) of section 7 of the Coal Bearing Areas (Acquisition and Development) Act, 1957 (20 of 1957), the Central Government gave notice of its intention to acquire the lands in the locality specified in the Schedules appended to that Notification;

And whereas the competent authority in pursuance of section 8 of the said Act has made his report to the Central Government;

And whereas the Central Government after considering the report and after consulting the Government of Bihar is satisfied that—

(a) the lands measuring 193.25 acres or 78.26 hectares described in the Schedule I appended hereto; and

(b) the rights to mine, quarry, bore, dig and search for, win, work and carry away minerals in the lands measuring 1405.25 acres or 569.13 hectares described in the Schedule II appended hereto;

should be acquired.

Now, therefore, in exercise of the powers conferred by sub-section (1) of section 9 of the said Act, the Central Government hereby declares that the land measuring 193.25 acres or 78.26 hectares described in the said Schedule I and the rights to mine, quarry, bore, dig and search for, win, work and carry away minerals in the lands measuring 1405.25 acres or 569.13 hectares described in the said Schedule II are hereby acquired.

The plans of the area covered by this Notification may be inspected in the Office of the Deputy Commissioner, Dhanbad (Bihar) or in the office of the Coal Controller, 1, Council House Street, Calcutta or in the office of the National Coal Development Corporation Limited (Revenue Section), Darbhanga House, Ranchi.

#### SCHEDULE I

*Parasia Colliery (MANIDI COLLIERY)*

Drg. No. Rev./74/63.

*Central Jharia coalfield (Mine-1)*

Dated: 14-7-63.

*Sub-Block-1*

(Showing lands acquired)

S. No.	Village	Thana	Thana No	District	Area	Remarks
1	Samsikhra	Jharia	95	Dhanbad	..	Part
2	Dhandabar	Jharia	82	Dhanbad	..	Part
3	Dhobni	Jharia	96	Dhanbad	..	Part
4	Gopinathdih	Jharia	97	Dhanbad	..	Part
		Total	190.50 Acres (Approx.)			
		Or	77.15 Hectares (Approx.)			

**Plot Nos. acquired in village Samsikhra :**

1,3(P), 4 to 10, 11 (P), 12 to 85, 86(P), 92(P), 93, 94, 95(P), 96 to 114, 115(P), 116(P), 124 (P), 125, 126(P), 128(P), 134(P), 138(P), 148(P), 149(P), 150(P), 214 (P), 230, 231, 232 (P) and 234.

**Plot Nos. acquired in village Dhandabar :**

529, 530, 532(P), 534(P), 536(P), 537, 538(P), 539, 540(P), 553(P), 554(P), 555(P), 560(P), 584(P), 647(P), 695(P), 714(P), 715(P), 716(P), 717(P), 718(P), 719(P), 720(P), 724(P), 725(P), 726(P), 733(P), 734(P), 735, 736, 737(P), 738(P), 742, 743, 744, 745(P), 746, 747, 748, 749, 752(P), 792(P), 793(P), 794(P), 795(P), 796(P), 797(P), 798(P), 799(P), 804(P), 806, 807(P), 812(P), 813(P), 814(P), 815(P), 817(P), 818, 819(P), 820(P), 821(P), 823(P), 824(P), 826(P), 827(P), 828(P), 829(P), 830(P), 831(P), 835(P), 836(P), 837(P), 838(P), 839(P), 840(P), 845(P), 846(P), 847(P), 848(P), 849(P), 910(P), 912(P), 913(P), and 914(P).

598(P), 627(P), 628(P), 629(P), 630, 631(P), 635(P), 820(P), 821, 822(P), 823(P), 824(P), 851(P), 852(P), 853(P), 875(P), 876(P), 877, 878, 879(P), 880, 881(P), 882(P) and 905(P).

1, 8(P), 3 to 51, 52(P), 54(P), 55(P), 56(P), 57(P), 59(P), 60, 62(P), 63 to 72, 73(P), 79(P), 80, 81, 92, 83(P), 84(P), 85(P), 108(P), 109(P), 111(P), 112, 113, 114, 115, 116(P), 117(P), 118(P), 143(P), 144(P), 146(P), 147, 175(P), 186(P), 187, 188, 189(P), 190(P), 191 to 243, 244(P), 245(P), 246, 249(P), 250, 251 to 273, 274(P), 278, 279 to 282, 283(P), 284(P), 290(P), 291(P), 292(P), 317(P), 348(P), 349 to 353, 354(P), 355 to 381, 382(P), 383 to 387, 398(P), 389 to 405, 407(P), 408, 409, 428(P) and 510(P).

5-6 line passes through plot Nos. 913, 912 and going upto Northern Junction point of plot Nos. 910 and 909 in village Dhandabar.

- 6-7 line passes through plots Nos. 910, 836, 837, 838, 839, 840, 845, 846, 849, 847, 848, 827, 826, 824, 819, 812, 813, 807, 792, 804, 794, 793, 795, 796, 797, 799, 726, 734, 733, 719, 718, 717, 716, 752, in village Dhandabar, through plot Nos. 598, 627, 629, 631, in village Dhobni, through plot Nos. 553, 540 in village Dhandabar and through plot Nos. 820, 822, 823, 824 in village Dhobni.
- 7-8 line passes along the part common boundary of villages Samsikhara and Dhobni through plot Nos. 851, 852, 853, 875, 876, 882, 879, 881, 905 in village Dhobni through plot Nos. 283, 283, 290, 291, 292, 250, 249, 244, 245, 347, 348, 354, in village Gopinathdi, along the part common boundary of villages Gopinathdi and Chakputaha and part common boundary of villages Gopinathdi and Phutaha.
- 8-9 line passes along the Southern boundary of plot Nos. 409, 408, northern boundary of plot Nos. 426, 427, through plot Nos. 428, along the part southern boundary of plot No. 407, through plot Nos. 407, 388, 382, 186, 189, 190, 175, along the northern boundary of plot Nos. 167, 148, along the common boundary of plot Nos. 141, and 147, and through plot Nos. 146, 144, 145, 116, 117, 118, 111, 109, 108 in village Gopinathdi.
- 9-10 line passes through plot Nos. 108, 274, 52, 54, 55, 57, 59, 62, 73, 79, 84, 85, 83, 2, 540, in village Gopinathdi, and through plot Nos. 11, 214, 115, 116, 124, 126, 128, 134, 95, in village Samsikhra.
- 10-11 line passes through plot nos. 95, 92, along the part southern boundary of plot No. 85 through plot nos. 86, 138, along the southern boundary of plot no. 78 through plot nos. 148, 149, 232, 149, 150, along the part western boundary of plot no. 5 along the part southern boundary of plot no. 231 and along the part common boundary of villages Manidi and Samsikhra.
- 11-12 line passes along the part common boundary of villages Samsikhra and Dhandabar, along the southern boundary of plot no. 2 and along the part southern boundary of plot no. 3 in village Samsikhra.
- 12-5 line passes through plot no. 3 in village Samsikhra through plot Nos. 534, 536, 532, 538, along the Western boundary of plot Nos. 530, 529, through plot nos. 584, 554, 555, 560, 647, 714, 716, 715, 717, 718, 720, 745, along the western boundary of plot nos. 743, 742, through plot Nos. 738, 737, 724, 725, 695, 799, 798, 804, 807, 815, 814, 817, 820, 821, 823, 824, along the western boundary of plot No. 26, and through plot nos. 827, 828, 829, 830, 831, 840, 839, 838, 835, 836, 914, 913, in village Dhandabar.

## All Rights

Sl. No.	Village	Thana	Thana No.	District	Area	REMARKS
1	Parasia	Jharia	84	Dhanbad		Part
2	Garbhudih	Jharia	85	Dhanbad		Part.
		Total area : 2.75 acres (Approx.) OR 1.11 Hectares (Approx.).				

*Plot Nos. acquired in village Parasia :*

896(P), 900(P), 908(P), 917(P), 922(P), 923(P), 924(P), 925(P), 927(P), 942(P), 944(P)  
945(P).

*Plot Nos. acquired in village Garbhudih :*

13 and 15.

**BOUNDARY DESCRIPTION OF SUB-BLOCK II.**

- 1-2 line passes along the part southern boundary of plot No. 886 in village Parasia.
- 2-3 line passes through plot Nos. 925, 945, 944, 942, along the western boundary of plot Nos. 926 through plot Nos. 927, 923, 922, 908, 917, in village Parasia, along the part common boundary of village s Garbhudih and Parasia and along the eastern boundary of plot Nos. 15 and 13 in village Garbhudih.
- 3-4 line passes along the southern boundary of plot no. 13 in village Garbhudih.
- 4-1 line passes along the part common boundary of villages Garbhudih and Parasia, and through plot nos. 917, 908, 922, 923, 924, 925, 900, 896 in village Parasia.

**SCHEDULE—II  
SUB-BLOCK—III**

Plan No. Fev/74/6

Dated 14-7-63

(showing lands where rights to mine  
quarry, bore, dig and search for  
w n, work and carry away minerals  
are acquired)

Sl. No.	Village	Thana	Thana No.	District	Area	Remarks
1	Parasia	Jharua	84	Dhanbad		Part
2	Garbhudih	"	86	"		"
3	Manidi	"	85	"		"
4	Samsikhra	"	95	"		"
5	Panderkanali	"	80	"		"
6	Chirudi	"	83	"		"
7	Dhandabar	"	82	"		"
TOTAL AREA			934.25 acres (approx.) OR 378.37 Hectares (Approx.)			

*Plot Nos. acquired in village Parasia :*

1 to 895, 896(P), 897, 898, 899, 900(P), 901 to 907, 908(P), 909 to 916, 917(P), 918, 919, 920, 921, 922(P), 923(P), 924(P), 925(P), 926(P), 927(P), 928 to 941, 942(P), 943, 944(P), 945(P), and 946 to 1740.

*Plot nos. acquired in village Garbhudih.*

1(P), 2(P), 4(P), 6(P), 11(P), 12(P), 14, 16, 17, 18, 19(P), 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, 35, 36, 37, 38(P), 40(P), 41(P), 42(P), 43(P), 46(P), 47 to 111, 112(P), 114(P), 115, 116, 117, 118(P), 124(P), 125 to 138, 139(P), 140, 141, 142, 143, 144, 145, 146, 147, 148, 149(P), 150(P), 151(P), 152(P), 153(P), 154(P), 195(P), 196(P), 203(P), 204(P), 206(P), 207(P), 208, 209, 210, 211, 212(P), 213(P), 214, 215, 216(P), 217, 218(P), 220(P), 221, 222, 223(P), 224(P), 226(P), 227, 228, 229, 230, 231(P), 246(P), 248(P), 249(P), 250, 251(P), 252(P), 284(P), 287(P) and 920.

*Plot Nos. acquired in village Manidi :*

1 to 69, 70(P), 81(P), 84(P), 85(P), 85(P), 87 to 215, 216(P), 219(P), 220(P), 223(P), 224, 225, 226, 227(P), 229(P), 231(P), 232(P), 233 to 239, 240(P), 241(P), 244(P), 245(P), 272(P), 273(P), 279(P), 280(P), 283(P), 284(P), 285(P), 286(P), 287 to 510, 511(P), 516(P), 517(P), 518(P), 519(P), 686(P), 687(P), and 688(P).

*Plot Nos. acquired in village Samsikhra :*

2, 3(P), 85(P), 87, 88, 89(P), 90(P), 91, 92(P), 95(P), 134(P), 135(P), 136(P), 137(P), 138(P), 139(P), 144(P), 143(P), 149(P), 150(P), 151 to 155, 156(P), 157(P), 232(P), and 233(P).

*Plot Nos. acquired in village Panderkanali :*

(P), 251(P), 252, 253(P), 259(P), 260(P), 261, 262(P), 263(P), 266(P), 267, 268, 269, 270, 271(P), 272 to 276, 277(P), 279(P), 280(P), 281(P), 282 to 326, 327(P), 328(P), 329(P), 330(P), 331(P), 335(P), 379(P), 380(P), 381(P), 382(P), 383(P), 384 to 390, 391(P), 392, 393, 394, 401(P) and 407(P).

*Plot Nos. acquired in village Chirudi :*

1 to 250, 251(P), 252(P), 254(P), 255(P), 273(P), 274(P), 275(P), 276(P), 277(P), 278(P), 279(P), 281(P), 284(P), 285(P), 285 to 323, 323(P), 332(P), 353(P), 354(P), 355(P), 356(P), 357(P), 358(P), 359(P), 360(P), 362(P), 263 to 500, 501(P), and 502.

*Plot Nos. acquired in village Dhandabar :*

10(P), 11, 12, 13(P), 71(P), 84(P), 85(P), 86, 87, 88, 89(P), 90 to 98, 99(P), 100(P), 111(P), 112(P), 113(P), 114(P), 115 to 123, 124(P), 120(P), 133(P), 134(P), 135 to 143, 144(P), 145(P), 147(P), 148(P), 149 to 528, 531, 532(P), 533, 534(P), 535, 536(P), 533(P), 551(P), 555(P), 556 to 559, 560(P), 561 to 583, 584(P), 585 to 646, 647(P), 648 to 692, 695(P), 696 to 713, 714(P), 715(P), 716(P), 717(P), 718(P), 720(P), 721, 722, 723, 724(P), 725(P), 737(P), 738(P), 739, 740, 741, 745(P), 798(P), 799(P), 800, 810, 802, 803, 804(P), 805, 807(P), 814(P), 815(P), 816, 817(P), 820(P), 821(P), 822, 823(P), 824(P), 827(P), 828(P), 829(P), 830(P), 831(P), 832 to 834, 835(P), 836(P), 838(P), 839(P), 840(P), 913(P), 914(P), 915(P), 1040, 1041, 1043, 1044, 1045, 1046, 1047, 1048 and 1049.

*BOUNDARY DESCRIPTION OF SUB-BLOCK-III.*

5—12 line passes through plot Nos. 913, 914, 836, 835, 838, 839, 840, 831, 830, 829, 828, 827, along the western boundary of plot No. 25 through plot Nos. 824, 823, 821, 820, 817, 814, 815, 807, 804, 798, 799, 695, 725, 724, 737, 738, along the western boundary of plot Nos. 742, 743, through plot Nos. 745, 720, 718, 717, 715, 716, 714, 647, 560, 555, 554, 584, along the western boundary of plot Nos. 529, 530, through plot Nos. 538, 532, 535, 534, in village Dhandabar and through plot No. 3 in village Samsikhra.

—11 line passes along the part southern boundary of plot No. 3, along the southern boundary of plot No. 2 and part common boundary of villages Samsikhra and Dhandabar.

11—10 line passes along the part common boundary of villages Manidi and Samsikhra, part southern boundary of plot No. 231, along the western boundary of plot No. 5, through plot Nos. 150, 149, 232, 149, 148, along the southern boundary of plot No. 78, through plot Nos. 138, 86, along the part southern boundary of plot No. 85, and through plot Nos. 92, 95 in village Samsikhra.

10—13 line passes through plot Nos. 95, 134, 135, 136, 89, 90, 137, 86, 138, 139, again 138, 144, 148, 157, 233, 156, in village Samsikhra, through plot Nos. 511, 516, 517, 518, 519, 272, 273, 270, 280, 283, 284, 285, 286, 215, 214, 240, 241, 231, 232, 229, 227, 223, 220, 219, 216, 81, 84, 85, 86, 70, 686, 688, 687 in village Manidi, through plot Nos. 151, 150, 149, 153, 154, 139, 124, along the southern boundary of plot Nos. 125, 126, through plot No. 118, 114, 112, 195, 196, 212, 217, 206, 204, 203, 216, 218, 220, 223, 224, 213, 226, 231, 46, 43, 42, 41, 40, 38, 246, 248, 249, 251, 252, 284, 19, along the common boundary of plot Nos. 18, 288, 286, and through plot Nos. 287, 11, 12, 6, 4, 2, 1, in village Garbhudih.

13—14 line passes along the Central line of Kathro Nadi (River Bans Joria) in villages Prasia, Chirudi and part of village Panderkanali.

14—5 line passes through plot Nos. 271, 2, 259, 260, 262, 263, 266, 253, 251, 277, 279, 280, 281, 331, 330, 329, 328, 327, 335, 379, 380, 381, 382, 383, 407, 401, 391, in village Panderkanali, through plot Nos. 252, 254, 251, 255, 284, 285, 281, 279, 278, 277, 276, 275, 274, 273, 332, 329, 354, 355, 353, 356, 357, 358, 359, 360, 362, in village, Chirudi, through plot Nos. 10, 13, in village Dhandabar, through plot No. 501, in village Chirudi and through plot Nos. 148, 147, 145, 144, 129, 133, 134, 124, 111, 112, 114, 113, 99, 100, 84, 89, 85, 71, 915, 913, in village Dhandabar.

1—2 line passes along the part southern boundary of plot No. 886 Parasia.

2—3 line passes through plot Nos. 925, 945, 944, 942, along the western boundary of plot No. 926, through plot Nos. 927, 923, 922, 908, 917, in village Parasia along part common boundary of villages Garbhudih and Parasia and along the eastern boundary of plot Nos. 15 and 13 in village Garbhudih.

3—4 line passes along the southern boundary of plot No. 13 in village Garbhudih.

4—1 line passes along the part common boundary of villages Garbhudih and Parasia, and through plot Nos. 917, 908, 922, 923, 924, 925, 900, 896, in village Parasia (which is the common boundary of Sub-Block-III M.R. and Sub-Block-II A.R.)

## SUB-BLOCK-IV

## "Mining Rights"

Sl. No.	Village	Thana	Thana No.	District	Area	Remarks
1	Dhandabar	Jharia	82	Dhanbad		Part
2	Dhobni	"	96	"		"
3	Gopinathdih	"	97	"		"
4	Chakphutaha	"	98	"		Full
5	Rajasbera	"	102	"		Part
6	Sabaldih	"	103	"		"
7	Phutaha	"	99	"		"
TOTAL AREA		471.00 acres (Approx.) OR 190.76 Hectares (approx.)				

*Plot Nos. acquired in village Dhandabar :*

540(P), 541, to 552, 553(P), 716(P), 717(P), 718(P), 719(P), 726(P), 727, 728, 729, 730, 731, 732, 733(P), 734(P), 750, 751, 752(P), 753 to 791, 792(P), 793(P), 794(P), 795(P), 796(P), 797(P), 799(P), 804(P), 807(P), 808, 809, 810, 811, 812(P), 813(P), 819(P), 824(P), 825, 826(P), 827(P), 836(P), 837(P), 838(P), 839(P), 840(P), 841, 842, 843, 844, 845(P), 846(P), 847(P), 848(P), 849(P), 850 to 876, 877(P), 878(P), 879, 880(P), 883(P), 884, 885(P), 887(P), 888(P), 889(P), 900(P), 902(P), 903(P), 904(P), 905, 906, 908(P), 909(P), 910(P), 1001(P), 1002(P), 1003, 1004, 1005, 1006, 1007, 1008(P), 1009(P), 1010(P), 1011, 1012(P), and 1034(P).

*Plot Nos. acquired in village Dhobni :*

1 to 79, 80(P), 81(P), 82, 83(P), 84(P), 85 to 103, 104(P), 105(P), 106(P), 107, 108, 109(P), 197(P), 258(P), 277(P), 278(P), 280(P), 281, 282, 283(P), 285(P), 286, 287, 288(P), 289(P), 290(P), 291 to 302, 303(P), 307(P), 315(P), 316(P), 317(P), 318(P), 319(P), 320, 321, 322(P), 323 to 329, 330(P), 321, 332(P), 333(P), 334 to 367, 368(P), 369(P), 370(P), 371 to 597, 598(P), 599 to 626, 627(P), 628(P), 629(P), 631(P), 632, 633, 634, 635(P), 636 to 819, 820(P), 822(P), 823(P), 824(P), 825 to 850, 851(P), 852(P), 853, 854 to 874, 875(P), 876(P), 879(P), 881(P), 882(P), 883 to 904, 905(P), 906 to 1038, 1040(P), 1041, 1042, 1043 and 1044.

*Plot Nos. acquired in village Gopinathdih :*

108(P), 109(P), 110(P), 111(P), 116(P), 117(P), 118(P), 119(P), 120, 121, 122(P), 123(P), 126(P), 137(P), 138(P), 139, 140, 141, 142, 143(P), 144(P), 145, 146(P), 148 to 155, 156(P), 158(P), 160(P), 161(P), 162 to 174, 175(P), 176 to 185, 186(P), 189(P), 190(P), 244(P), 245(P), 247, 248, 249(P), 250(P), 283(P), 284(P), 285 to 289, 290(P), 291(P), 292(P), 293, 294, to 346, 347(P), 348(P), 354(P), 382(P), 388(P), 407(P), 410 to 427, 428(P), 429, 430, 431, 432(P), 433, 434, 435, 436, 437, 438, 439(P), 440, 441, 442, 443(P), 444(P), 445(P), 446, 447(P), 448, 449, 450(P), 451(P), 458(P), 459, 460, 461, 462, 463, 464(P), 467(P), and 513(P).

*Plot Nos. acquired in village Chakphutaha :*

1 to 157.

*Plot Nos. acquired in village Rajasbera :*

1 to 15, 16(P), 17(P), 18(P), 31(P), 32(P), 33(P), 34(P), 286(P), 287 and 288.

*Plot Nos. acquired in village Sabaldih :*

80(P), 93(P), 104(P), 106(P), 107, 108(P), 109 to 116, 117(P), 118(P), 119 to 131, 132(P), 133 to 199, 200(P), 201(P), 203(P), 204 to 229, 230(P), 231(P), 232, 234(P), 235 to 248, 249(P), 250(P), 251(P), 252, 253, 254, 255(P), and 286.

*Plot Nos. acquired in village Phutaha :*

38(P), 40(P), 41(P), 52(P), 58(P), 59(P), 62 to 88, 89(P), 90(P), 91 to 96, 97(P), 98(P), 99(P), 118(P), 119(P), 169(P), 170 to 180, 181(P), 182 to 203, 204(P), 205 to 211, 212(P), 213(P), 214, 215, 216, 217(P), 218(P), 219 to 235, 236(P), 237 to 239,

240(P), 241, 242 to 247, 248(P), 249(P), 253(P), 266(P), 267(P), 268(P), 269(P), 270(P), 273(P), 274 to 297, 298(P), 300(P), 452(P), 511(P), 512(P), 513, 514, 515(P), 552(P), 555(P), 556(P), 557(P), 559(P), 560(P), 561, 562, 563(P), 564(P), 565 to 640, 641(P), 642(P), 644(P), 723, and 726.

#### BOUNDARY DESCRIPTION OF SUB-BLOCK IV

- 6—15 line passes through plot Nos. 909, 958, 902, 880, 903, 878, 877, 883, 889, 888, 887, 885, 900, 1001, 1012, 1010, 1009, 1003, 1034, in village Dhandabar, through plot Nos. 80, 81, 83, 84, 104, 105, 106, 109, 290, 289, 288, 285, 283, 280, 278, 277, 258, 303, 333, 332, 1040, 307, 330, 322, 319, 315, 318, 316, 317, 197, 368, 369, 370, in village Dhobni, and through plot Nos. 52, 59, 58, 41, 40, 38, 39, 90, 38, 97, 98, 99, 118, 181, 119, 169, 204, 212, 213, 217, 218, 248, 249, 253, 240, 236, 266, 267, 268, 269, 270, 273, 300, 298, 452, 298, in village Phutaha.
- 15—16 line passes through plot Nos. 298, 511, 512, 515, in village Phutaha.
- 16—17 line passes along the part western boundary of plot No. 515, along the western boundary of plot Nos. 517, 518, 519, 520, through plot Nos. 552, 564, 563, 560, 559, 557, 556, 555, 641, 642, 644, in village Phutaha and through plot Nos. 16, 17, 18, 286, 31, in village Rajasbera.
- 17—18 lines pass through plot Nos. 31, 33, 34, in village Rajasbera and through plot Nos. 201, 19, 200, 203, 255, 251, 250, in village Sabaldih.
- 19—9 line passes through plot Nos. 250, 249, 80, 234, 231, 230, 80, 132, 108, 106, 104, 93, 117, 118, in village Sabaldih and through plot Nos. 513, 432, 439, 444, 442, 445, 447, 451, 450, 458, 464, 467, 407, 161, 160, 158, 156, 137, 138, 126, 122, 123, 119, 110, 108, in village Gopinathdih.
- 9—8 line passes through plot Nos. 108, 109, 111, 118, 117, 116, 143, 144, 146 along the common boundary of plot Nos. 141, 147, along the Northern boundary of plot Nos. 148, 167, through plot Nos. 175, 190, 189, 186, 382, 388, 407, along the part southern boundary of plot No. 407, through plot No. 428, along the Northern boundary of plot Nos. 427, 426, and along southern boundary plot Nos. 408, 409, in village Gopinathdih.
- 8—7 line passes along the part common boundary of villages Gopinathdih and Phutaha, part common boundary of villages Gopinathdih and Chakphutaha through plot Nos. 354, 318, 347, 245, 244, 249, 250, 292, 291, 290, 283, 284, in village Gopinathdih, through plot Nos. 605, 881, 879, 882, 876, 875, 853, 852, 851, in village Dhobni and along the part common boundary of villages Samsikhara and Dhobni.
- 7—6 line passes through plot Nos. 824, 823, 822, 820, in village Dhobni, through plot Nos. 540, 553, in village Dhandabar, through plot Nos. 635, 631, 600, 627, 628, 598, in village Dhobni and through plot Nos. 752, 716, 717, 718, 719, 733, 734, 726, 799, 797, 796, 795, 793, 794, 804, 792, 807, 813, 812, 819, 824, 826, 827, 848, 849, 847, 846, 845, 840, 839, 838, 837, 836, 910, in village Dhandabar.

[No. C2-20(7)/63.]

A. NABAR, Under Secy.

### MINISTRY OF FOOD AND AGRICULTURE

(Department of Agriculture)

New Delhi, the 20th September 1963

**S.O. 2762.**—The following draft of the Table Potatoes (for export) Grading and Marking Rules, 1963, which the Central Government proposes to make in exercise of the powers conferred by section 3 of the Agricultural Produce (Grading and Marking) Act, 1937 (1 of 1937), is published as required by the said section for the information of all persons likely to be affected thereby and notice is hereby given that the said draft will be taken into consideration on or after 20th October, 1963.

Any objection or suggestion which may be received from any person with respect to the said draft before the date specified, will be considered by the Central Government.

#### TABLE POTATOES FOR EXPORT (GRADING AND MARKING) RULES, 1963

1. **Short title and application.**—(1) These rules may be called the Table Potatoes for Export (Grading and Marking) Rules, 1963.

(2) They shall apply to Table Potatoes (*Solanum Tuberosum*) produced in India and meant for export.

2. **Definitions.**—In these rules—

(a) "Agricultural Marketing Adviser" means the Agricultural Marketing Adviser to the Government of India.

(b) "Schedule" means a Schedule to these rules.

3. **Grade Designations.**—Grade designations to indicate the quality of Table Potatoes produced in India shall be as set out in column 1 of Schedules II to V.

**4. Definition of Quality.**—The quality indicated by the respective grade designations shall be as set out against each grade designation in columns 2 to 7 of Schedules II to V.

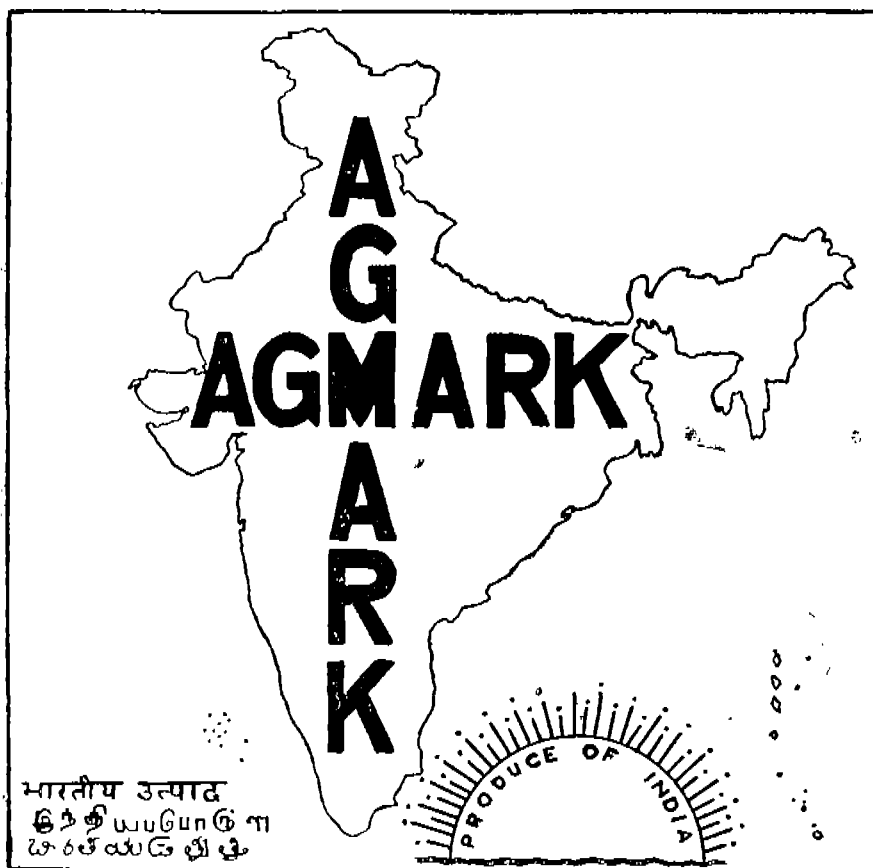
**5. Grade Designation Marks.**—The grade designation mark shall consist of a label specifying the grade designation and bearing a design (consisting of an outline map of India with the word 'AGMARK' and the figure of the rising sun, with the words 'Produce of India' and 'भारत य उत्पाद' resembling the one set out in Schedule I.

**6. Method of Marking.**—(1) The grade designation mark label shall be securely affixed to each container in a manner approved by the Agricultural Marketing Adviser and shall clearly show the following particulars:

- (a) Grade designation with the words 'table potatoes for export';
- (b) Variety or trade name;
- (c) Net weight;
- (d) Date of packing.

#### SCHEDULE I

The grade designation mark for potatoes shall consist of the following design in conjunction with a grade designation.



NOTE.—The Tamil and Telugu words will not occur in the labels in case where commodities are graded for the purpose of export.

The labels will be of the following colour:

Extra Special	..	White.
Special	..	Red.
General	..	Blue.

(2) An authorised packer may, after obtaining the prior approval of the Agricultural Marketing Adviser, mark his private trade mark on a container, in a manner approved by the said officer, provided that the private trade mark does not represent quality or grade of Table Potatoes different from that indicated by the grade designation mark affixed to the container in accordance with these rules.

**7. Method of Packing.**—(1) Only sound, clean and dry containers made of jute shall be used for packing. They shall be free from any insect infestation or fungus contamination and also be free from any undesirable smell.

(2) The containers shall be securely closed and sealed in a manner approved by the Agricultural Marketing Adviser.

(3) Each package shall contain Table Potatoes of one trade description and grade designation only.

**8. Special conditions of Certificate of Authorisation.**—In addition to the conditions specified in rule 4 of the General Grading and Marking Rules, 1937, the following special conditions shall be observed by packers to the satisfaction of the Agricultural Marketing Adviser:—

(a) An authorised packer shall make such arrangements for testing table potatoes as may be prescribed by the Agricultural Marketing Adviser;

(b) An authorised packer shall provide all facilities as may be necessary for sampling, testing, etc. to the Inspecting Officers duly authorised by the Agricultural Marketing Adviser in this behalf.



SCHEDULE II

Grade designations and definition of quality of Table Potatoes of Mettupalayam variety (Oval or long or round or mixed\*)

Grade designation	General	Definition of quality					
		Applicable to single tuber's size (min. dia. in mm.)	Conformity to variety etc.**	Applicable to quantities			
				Tolerances			
				Undersize or over-size	Disease, damage, etc.	Earth and extraneous matter	
1	2	3	4	5	6	7	
Extra Special	Reasonably clean, healthy potatoes, free from serious defect and suitable for human consumption.	46@	Atleast by weight conform to the variety.	95% must to	Not more than 3% of the total/weight may pass through sieve having circular holes with a diameter of a minimum size specified (in col. 3) for the grade.	Not more than 2% of the total weight may consist of diseased, damaged and sprouted potatoes.	Not more than 2% may be present, the percentage to be calculated on the net weight of screened potatoes.
Special	Do.	35	Do.		Do.	Do.	Do.
General	Do.	25	Do.		Do.	Do.	Do.

\*The word "Oval or Long or Round or Mixed" shall be marked, following the trade description, on the AGMARK label, by means of rubber stamp.

\*\*Column 4 relating to conformation to variety will not apply to mixed lots.

@In case when the potatoes have been passed over a riddle of greater mesh than 46 mm. the minimum size may, at the seller's discretion, be appended to the grade name e.g., "Extra Special" (51 mm., 57 mm., 64 mm.) but potatoes which exceed 89 mm., in their smallest diameter shall be excluded from grading.

1. Any disease or defect, the presence of which may be established by cutting open the potato, shall be taken into account, and potatoes having cuts, worm and slug holes penetrating into the flesh, shall be regarded as damaged.
2. Potatoes affected by greenness, superficial disease or damage shall not be regarded as diseased or damaged unless more than 1/5 of the surface is so affected.
3. A potato shall only be regarded as being obviously affected with the soft rot, if at the time of inspection, it is squashy or the surface is at some part distinctly broken or wet owing to disease.

## SCHEDULE III

Grade designations and definition of quality of Katwa or Farukabad Table Potatoes (round)\*

Grade designation	General	Definition of quality				
		Applicable to single tuber's size (Min. dia. in m.m.)	Conformity to variety etc.	Applicable to qualities		
				Tolerances		
				Under-size or over-size	Disease, damage, etc.	Earth and extraneous matter
1	2	3	4	5	6	7
Extra Special	Reasonably clean, healthy potatoes, free from serious defect and suitable for human consumption.	25@	Atleast 95% by weight must conform to the variety.	Not more than 2% of the total weight may pass through sieve having circular holes with a diameter of the minimum size specified (in col. 3) for the grade.	Not more than 2% of the total weight may consist of diseased, damaged or sprouted potatoes.	Not more than 2% may be present, the percentage to be calculated on the net weight of screened potatoes.
Special	Do.	20	Do.	Do.	Do.	Do.

\*The word "Round" shall be marked, following the trade description, on the AGMARK label, by means of a rubber stamp.

@When the potatoes have been passed over a riddle of greater mesh than 25 mm., the minimum size may, at the sellers' discretion be appended to the grade name, e.g., "Extra Special" (51 mm; 57 mm; 64 mm; etc.) but potatoes which exceed 89 mm. in their smallest diameter shall be excluded from grading.

1. Any disease or defect, the presence of which may be established by cutting open the potato, shall be taken into account and potatoes having cuts, worm and slug holes penetrating into the flesh shall be regarded as damaged.
2. Potatoes affected by greenness, superficial disease or damage shall not be regarded as diseased or damaged unless more than 1/5 of the surface is so affected.
3. A potato shall only be regarded as being obviously affected with the soft rot, if at the time of inspection, it is squashy or the surface is at some part distinctly broken or wet owing to disease.

# SCHEDULE IV

Grade designations and definition of quality of Table Potatoes (Oval or long\*) of varieties other than Mettupalayam Potatoes.

Grade Designation	General	Definition of quality					
		Applicable to single tuber's size (min. dia. in mm.)	Applicable to quantities				Earth and extraneous matter
			Conformity to variety etc.	Tolerances			
				Under size or over-size?	disease, damage, etc.		
1	2	3	4	5	6	7	
Extra Special	Reasonably clean, healthy potatoes, free from serious defect and suitable for human consumption.	40@	Atleast by weight conform to variety	95% must the	Not more than 3% of the total weight may pass through sieve having circular holes with a diameter of a minimum size specified (in col. 3) for the grade.	Not more than 2% of the total weight may consist of diseased, damaged, or sprouted potatoes.	Not more than 2% may be present, the percentage to be calculated on the net weight of screened potatoes.
Special	Do.	30	Do.		Do.	Do.	Do.
General	Do.	20	Do.		Do.	Do.	Do.

\*The word "Oval or long" shall be marked, following the trade description, on the AGMARK label, by means of rubber stamp.

(i) When the potatoes have been passed over a riddle of greater mesh than 40 mm. the minimum size may, at the seller's discretion, be appended to the grade name, e.g., "Extra Special" (51 mm.; 57 mm.; 64 mm.) but potatoes which exceed 89 mm., in their smallest diameter shall be excluded from grading.

1. Any disease or defect, the presence of which may be established by cutting open the potato, shall be taken into account, and potatoes having cuts, worm and slug holes penetrating into the flesh shall be regarded as damaged.
2. Potatoes affected by greenness, superficial disease or damage shall not be regarded as diseased or damaged unless more than 1/5 of the surface is so affected.
3. A potato shall only be regarded as being obviously affected with the soft rot, if at the time of inspection, it is squashy or the surface is at some part distinctly broken or wet owing to disease.

## SCHEDULE V

*Grade designations and definition of quality of Table Potatoes (round) other than Mettupalayam and Kaiva or Farukabad Potatoes.*

Grade designation	General	Definition of quality				
		Applicable to single tuber's size (Min. dia. in mms.	Applicable to qualities			
			Conformity to variety etc.	Tolerances		
				Under-size over-size	or Disease, damage, etc.	Earth and extraneous matter
1	2	3	4	5	6	7
Extra Special	Reasonably clean, healthy potatoes, free from serious defect and suitable for human consumption.	45@	Atleast 95% by weight must conform to the variety.	Not more than 3% of the total weight may pass through sieve having circular holes with a dia. of the minimum size specified (in. col. 3) for the grade.	Not more than 2% of the total weight may consist of diseased, damaged and sprouted potatoes.	Not more than 2% may be present, the percentage to be calculated on the net weight of screened potatoes.
Special	Do.	32	Do.	Do.	Do.	Do.

\*The word "Round" shall be marked, following the trade description, on the AGMARK label, by means of a rubber stamp.

@When the potatoes have been passed over a riddle of greater mesh than 45 mm. the minimum size may, at the seller's discretion be appended to the grade name, e.g., "Extra Special" (51 mm.; 57 mm.; 64 mm.; etc.) but potatoes which exceed 89 mm., in their smallest diameter shall be excluded from grading.

1. Any disease or defect, the presence of which may be established by cutting open the potato, shall be taken into account and potatoes having cuts, worm and slug holes penetrating into the flesh shall be regarded as damaged.
2. Potatoes affected by greenness, superficial disease or damage shall not be regarded as diseased or damaged unless more than 1/5 of the surface is so affected.
3. A potato shall only be regarded as being obviously affected with the soft rot, if at the time of inspection, it is squashy or the surface is at some part distinctly broken or wet owing to disease.

[No. F. 17-17/63-AM].

V.S. NIGAM, Under Secy.

## (Department of Agriculture)

New Delhi, the 21st September 1963

**S.O. 2763.**—In exercise of the powers conferred by section 5 of the Essential Commodities Act, 1955 (10 of 1955), the Central Government hereby makes the following amendment in the notification of the Government of India in the Ministry of Food and Agriculture (Department of Agriculture) S.O. 2190, dated the 26th July, 1963, namely:—

In the said notification, for the words and figures, "30th September, 1963", substitute "31st July, 1964".

[No. F. 1-14/62-C(E).]

N. RANGANATHAN, Under Secy.

## MINISTRY OF HEALTH

New Delhi, the 21st September 1963

**S.O. 2764.**—In pursuance of clause (a) of sub-section (1) of section 3 of the Indian Medical Council Act, 1956 (102 of 1956), the Central Government hereby nominates, in consultation with the Government of Mysore, Major-General S. L. Bhatia, I.M.S. (Retd.), Nandidurg Road, Bangalore, as a member of the Medical Council of India *vice* Dr. V. R. Naidu whose seat on the Council has fallen vacant under the provisions of section 7(3) of the said Act and makes the following further amendment in the notification of the Government of India in the Ministry of Health, No. F. 5-13/59-MI, dated the 9th January, 1960, namely:—

In the said notification, under the heading 'Nominated under clause (a) of sub-section (1) of section 3', against serial No. 12 for the existing entries, the following entries shall be substituted, namely:—

"Major-General S. L. Bhatia, I.M.S. (Retd.) Nandidurg Road, Bangalore."

[No. F. 4-7/63-PT.]

B. B. L. BHARADWAJ, Under Secy.

## MINISTRY OF WORKS, HOUSING &amp; REHABILITATION

(Department of Rehabilitation)

(Office of the Chief Settlement Commissioner)

New Delhi, the 16th September 1963

**S.O. 2765.**—Whereas the Central Government is of opinion that it is necessary to acquire the evacuee properties in the union territory of Delhi specified in the Schedule below for a public purpose, being a purpose connected with the relief and rehabilitation of displaced persons, including payment of compensation to such persons.

Now, therefore, in exercise of the powers conferred by Section 12 of the Displaced Persons (Compensation and Rehabilitation) Act, 1954 (44 of 1954), it is notified that the Central Government has decided to acquire, and hereby acquires the said evacuee properties (Specified in the Schedule below):—

## THE SCHEDULE

S. No.	Particulars of evacuee property	Name of the town and locality in which the evacuee is situated	Name of evacuee	Parentage of evacuee
1	XV/5326 new/ 6931 old.	Shora Kothi, Paharganj Delhi.	Sh. Shah Nawaz	..
2	XI/4011 old/3080 new.	Kucha Said Ulla Khan, Darya Ganj, Delhi	Sh. Abdul Aziz	..
3	XI/4013-14 old/ 3082 new.	Do.	Mst. Kishwar Sultan	..
4	XII/4215 old/ 3152 New.	Arya Pura, Subzi Mandi, Delhi.	Shri Mohd Shafi.	..

[No. 13(2)/Comp.&amp; Prop/61.]

New Delhi, the 17th September 1963

S.O. 2766.--Whereas the Central Government is of opinion that it is necessary to acquire the evacuee properties specified in the Schedule hereto annexed in the Union Territory of Delhi for public purpose, being a purpose connected with the relief and rehabilitation of displaced persons, including payment of compensation to such persons.

Now, therefore, in exercise of the powers conferred by Section 12 of the Displaced Persons (Compensation and Rehabilitation) Act, 1954 (44 of 1954), it is notified that the Central Government has decided to acquire, and hereby acquires the evacuee properties specified in the Schedule hereto annexed.

Sl. No.	Particulars of property		Area		Name of the evacuee with rights in the property.
	Khewat	Khasra No.	Big.	Bis.	
1	2	3	4	5	
<i>Village Chhatar Pur.</i>					
1	202/204 etc.	1442 1 . . . . .	2	4	Shitab Khan son of Rustam (12 shares), Ghafoor son of Shadi (12 shares), Badloo son of Nasir (2 shares), Umrao son of Inayat (3 shares), Ownership rights of evacuees.
		1284 . . . . .	4	16	
		1287 . . . . .	4	16	
		1669/4 . . . . .	1	3	
		1670 . . . . .	4	16	
		1754 4 . . . . .	3	12	
		1682 . . . . .	2	18	
		1678 . . . . .	4	16	
		1679 . . . . .	1	3	
		623 . . . . .	5	10	
		1683 . . . . .	4	16	
		1685 . . . . .	4	16	
		650 . . . . .	4	16	
		1241 . . . . .	0	5	
		1844 . . . . .	4	16	
		1851 . . . . .	4	16	
		1852 . . . . .	4	16	
		1849 . . . . .	4	16	
		1850 . . . . .	4	16	
		1848 . . . . .	4	16	
		1847 . . . . .	4	16	
		1638 2 . . . . .	0	15	
		1253/2 . . . . .	2	8	
		1254 . . . . .	4	16	
		1274 . . . . .	4	16	
		1283 . . . . .	4	16	
		709 . . . . .	3	5	
		1755/2 . . . . .	4	4	
		1833/3 . . . . .	0	18	
		441/2 . . . . .	1	4	
		440/2 . . . . .	0	11	
		624/2 . . . . .	2	8	
		1838/1 . . . . .	0	12	
		1811 . . . . .	4	16	
		1812 . . . . .	4	16	
		1816 . . . . .	5	14	
		1734/1/1 . . . . .	1	4	
		626/1/2 . . . . .	1	4	
		1791/2 . . . . .	1	4	
		1755/1 . . . . .	0	12	
		1735/1 . . . . .	0	9	
		1791 Min. . . . .	0	8	
		1733/2 . . . . .	1	16	
		624/1 . . . . .	2	19	
		1735/3 . . . . .	3	8	
		1733/1/1 . . . . .	0	13	
		1734/1/2 . . . . .	1	16	
		1733/1/2 . . . . .	0	15	
		872 . . . . .	0	18	

1	2	3	4	5
<i>Village Chhatar Pur- contd.</i>				
	1827/1 . . .		1 12	
	1837 . . .		4 16	
	1253/1 . . .		2 8	
	1754/1 . . .		1 4	
	1733/1 . . .		0 9	
	626, 1/1 . . .		0 18	
	1735/2 . . .		0 18	
	1736 . . .		4 16	
	1791/2 . . .		1 18	
	1734/1/2 . . .		1 16	
	1239/2 . . .		0 18	
	648 . . .		5 16	
	TOTAL . . .		179 10	
<i>Village Sat Pari</i>				
1 177 . . .	894 . . .		4 16	Kalu, Bhoora sons of Baswar in equal four shares, Shazad, Abdul Shakur ss o Medi, Mta, Rahmati wd'o Abdul Ghafoor in equal shares Bikan son of Nanwa 3 shares, Zahoor Bux son of Ajmeri 3 shares, Rashida son of Paltoo 18 shares. Ownership evacuee.
	895 Min. . .		4 8	
	896 . . .		4 16	
	889 . . .		3 13	
	890/1 . . .		2 8	
	700/3 . . .		1 16	
	701/3 . . .		3 9	
	693/3 . . .		1 14	
	701/1 . . .		1 9	
	693/4 . . .		0 12	
	694 . . .		4 16	
	692/2 . . .		1 5	
	675 . . .		4 16	
	692 . . .		4 16	
	693, 1 . . .		1 5	
	690 . . .		3 5	
	691 . . .		4 16	
	695 . . .		1 18	
	697 . . .		2 12	
	698 . . .		4 16	
	699 . . .		5 18	
	TOTAL . . .		69 4	

[No. F. 1(10)/L&amp;R/62.]

New Delhi, the 18th September 1963

S.O. 2767.—Whereas the Central Government is of opinion that it is necessary to acquire the evacuee properties specified in the Schedule hereto annexed in the State of Punjab for a public purpose, being a purpose connected with relief and rehabilitation of displaced persons, including payment of compensation to such persons.

Now, therefore, in exercise of the powers conferred by section 12 of the Displaced Persons (Compensation and Rehabilitation) Act, 1954 (44 of 1954) it is notified that the Central Government has decided to acquire, and hereby acquires the evacuee properties specified in the schedule hereto annexed.

## THE SCHEDULE

Sl. No.	Particulars of Evacuee Property	Name of the Town & Locality in which the property is situated	Name of the evacuee owner
1	2	3	4
1	K-465 . . .	Kotkapura Distt. Bhatinda .	Din Mohd., Khalike.
2	K-404, 405 . . .	Do. . .	Fateh Khan, Tufail Khan.
3	T/123/1 . . .	Do. . .	Ramzan.

1	2	3	4
4	K/175 . . . . .	Kotkapura Distt. Bhatinda	Kala S/o Ladh.
5	Ahata No. 27, K/85 . . . . .	Do. . . . .	Sher Mohd.
6	K-328, 329 . . . . .	Do. . . . .	Abdul S/o Sharif Mohd.
7	T/129 . . . . .	Do. . . . .	Umra.
8	D-123 . . . . .	Do. . . . .	Kaki W/o Mehra.
9	K-414/415 . . . . .	Do. . . . .	Gulam Mohd. & Maula Teli.
10	K-431 . . . . .	Do. . . . .	Mohd. Rafiq.
11	Ahata No. 1168, 18 . . . . .	Do. . . . .	Mehnga Shah Faqir.
12	Ahata No. 10, 429 & 430 . . . . .	Do. . . . .	Mohd. Rafiq & Mohd. Khaliq.
13	D-165 . . . . .	Do. . . . .	Alla Ditta.
14	T-134/1, & 134/2 . . . . .	Do. . . . .	Ramzan & Mohd. Din.
15	K-20, 24, 27 . . . . .	Do. . . . .	Saddru & Ghani etc.
16	T-128 . . . . .	Do. . . . .	Ismail S/o Badru.

[No. F. 23(15)/61-L&amp;R.]

M. J. SRIVASTAVA,  
Settlement Commissioner & *Ex-officio* Under Secy.

### MINISTRY OF LABOUR AND EMPLOYMENT

*New Delhi, the 17th September 1963*

**S.O. 2768.**—In pursuance of sub-rule (1) of rule 48 of Order XXI of the First Schedule to the Code of Civil Procedure, 1908 (5 of 1908), and in supersession of the notification of the Government of India in the Ministry of Labour No. S.R.O. 1055 dated the 30th April, 1956, the Central Government hereby appoints the officers specified in column 1 of the Table below as officers to whom notices of orders attaching the salaries and allowances of the officers specified in the corresponding entries in column 2 of the said Table shall be sent

TABLE

Officers to whom notice should be sent	Officers whose salaries are attached
1	2
(1) <i>Headquarters office of the Chief Adviser Factories.</i>	
Accountant General, Central Revenues, New Delhi	Gazetted Officers.
Chief Adviser Factories . . . . .	Non-Gazetted Officers.
(2) <i>Productivity Centre and Training-within-Industry Centre, Bombay.</i>	
Accountant General, Maharashtra, Bombay . . . . .	Gazetted Officers.
Deputy Chief Adviser Factories (Productivity) . . . . .	Non-Gazetted Officers.
(3) <i>Inspectorate Dock Safety, Bombay.</i>	
Accountant General, Maharashtra, Bombay . . . . .	Gazetted Officers.
Senior Inspector Dock Safety . . . . .	Non-Gazetted Officers.



I	2
Accountant General, West Bengal, Calcutta . . . . .	(4) <i>Inspectorate Dock Safety, Calcutta.</i>
Senior Inspector, Dock Safety . . . . .	Gazetted Officers.
	Non-Gazetted Officers.
Accountant General, Madras . . . . .	(5) <i>Inspectorate Dock Safety, Madras.</i>
Senior Inspector, Dock Safety . . . . .	Gazetted Officers.
	Non-Gazetted Officers.
Accountant General, Maharashtra, Bombay . . . . .	(6) <i>Central Labour Institute, Bombay.</i>
Assistant Chief Adviser Factories (Central Labour Institute).	Gazetted Officers.
	Non-Gazetted Officers.
Accountant General, West Bengal, Calcutta . . . . .	(7) <i>Regional Labour Institute, Calcutta.</i>
Assistant Regional Director . . . . .	Gazetted Officers.
	Non-Gazetted Officers.
Accountant General, Madras . . . . .	(8) <i>Regional Labour Institute, Madras.</i>
Assistant Regional Director . . . . .	Gazetted Officers.
	Non-Gazetted Officers.
Accountant General, U.P., Allahabad . . . . .	(9) <i>Regional Labour Institute, Kanpur.</i>
Assistant Regional Director . . . . .	Gazetted Officers.
	Non-Gazetted Officers.

[No. 517(130)/1963-Fac.]

P. D. GAIHA, Under Secy.

New Delhi, the 17th September 1963

S.O. 2769.—In pursuance of section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the following award of the Industrial Tribunal, Orissa, in the industrial dispute between the employers in relation to the Bolani Ores Iron Mine of Messrs. Bolani Ores Limited, Barbil and their workmen, which was received by the Central Government on 9th September, 1963.

BEFORE THE PRESIDING OFFICER, INDUSTRIAL TRIBUNAL, ORISSA,  
BHUBANESWAR

INDUSTRIAL DISPUTE CASE No. 7 OF 1963

Dated Bhubaneswar, the 3rd September, 1963

PRESENT:

Shri I. C. Misra, M.A., B.L., Presiding Officer, Industrial Tribunal, Orissa.

BETWEEN:

The Management of Messrs. Bolani Ores Limited, Barbil.—*First Party.*

AND

Their Workmen represented by Barbil Workers' Union, Barbil.—*Second Party.*

APPEARANCE:

Shri B. N. Parida, Welfare Officer of M/s. Bolani Ores Limited, Barbil.—*For the First Party.*

Shri Jamini Ranjan Dash, General Secretary, Shri Bairagi Jena, President of the Barbil Workers' Union.—*For the Second Party.*

AWARD.

The Government of India, Ministry of Labour and Employment, by its order dated 4th July 1963 referred the following dispute between Messrs. Bolani Ores Limited, Barbil and their workmen to this Tribunal for adjudication:

"Whether Sarvashri V. K. Joseph and Dara Singh, Shovel Operators employed in the Bolani Ores Iron Mine, were discriminated by the

management in not granting double increment to them for the year 1961 while other Shovel Operators were given double increments for the same year. If so, what relief the workmen are entitled to."

2. Due notice of this reference was given to the Superintendent, Messrs. Bolani Ores Limited, Barbil and General Secretary, Barbil Workers' Union. After receiving such notice, both parties appeared before me yesterday. They put in a petition to have an Award according to the terms of a mutual settlement arrived at in a joint meeting of the parties on 25th August 1963. The reference relates to two employees; one of them is Shri V. K. Joseph. In 1961, he was working as a Shovel Operator like several others. The scale in which these operators were then receiving their wages provided annual increment of Rs. 16/-. While other Shovel operators were given by the Management double increment, namely, Rs. 32/-, during the year 1961, Shri Joseph was given the annual increment of Rs. 16/- for that year. *Prima facie*, it shows some discrimination against him. By the present agreement this has been remedied and Shri Joseph will be paid one more increment of Rs. 16/- with effect from 1st July 1961. Sri Dara Singh was probably not in the same category in 1961 as Shri V. K. Joseph was among the Shovel Operators. So, instead of giving him any retrospective benefit, the Management and the Union have agreed that he too should be given another increment of Rs. 16/- with effect from 1st August 1963. In my opinion, these are substantial benefits achieved by the Union on behalf of the two workmen whose cases have been referred to me. The terms of settlement are beneficial to the workmen and hence, there is no reason why the memorandum of settlement should not be acted upon.

3. Shri Balragi Jena, the President, and Shri Jamini Ranjan Dash, the General Secretary, were present before me on behalf of the Union. Shri L. A. Hill, the Superintendent of Messrs. Bolani Ores Ltd., Barbil, has signed the memorandum of settlement. He has authorised Shri B. N. Parida, the Welfare Officer of the Company, to represent the Management before this Tribunal. Shri Parida was also present before me. When the terms of settlement were read over to them, all of them represented to me that they have correctly been recorded. They also signed the memorandum of settlement in my presence. In view of these circumstances, I am to find that the parties have really settled their dispute amicably and an Award should be passed in terms of the settlement. The first question raised in the reference should be answered in the affirmative and the answer to the second question should be according to the terms of the settlement.

4. It is, therefore, ordered that the joint petition filed by both the parties is allowed on admission. The memorandum of settlement is recorded. An Award is passed in terms thereof. It forms a part of the Award. Each party is directed to bear its own cost. Send this Award to the Government of India, Ministry of Labour and Employment, forthwith.

The 3rd September, 1963.

Sd./- I. C. MISRA,  
Presiding Officer,  
Industrial Tribunal, Orissa.

#### MEMORANDUM OF SETTLEMENT

##### Representing the Employer:

Shri L. A. HILL,  
Superintendent,  
Messrs. Bolani Ores Ltd.,  
P.O. Barbil, Keonjhar Dist.

##### Representing the Workmen:

Shri JAMINI RANJAN DAS,  
General Secretary,  
Barbil Workers' Union,  
P.O. Barbil, Dist: Keonjhar.

#### SHORT RECITAL OF THE CASE

The General Secretary, Barbil Workers' Union, in his letter No. B/W-CO/LI/61/62/63 dated 26th March 1963 raised a dispute on alleged discrimination in payment of wages to Sri V. K. Joseph and Sri Dara Singh, Operators, Heavy Equipment 'A' of Bolani Iron Mines of Bolani Ores Ltd. The Conciliation Proceedings were held on 9th April 1963. No settlement having been arrived at, the case was referred to the Industrial Tribunal Bhubaneswar, in the Government of India, Ministry of Labour & Employment Order (23/15/63-LRII) dated 9th July 1963 for adjudication, and the date for submission of Written Statement is fixed on 5th September 1963.

In the meantime, the parties discussed the matter further for an amicable settlement and in a Joint Meeting at Bolani on 25th August 1963, they came to an agreement on the issue under reference on the following terms and conditions:—

#### THE TERMS OF SETTLEMENT

1. Without prejudice to the unfettered complete discretion of the Management to sanction any special increment over and above the usual increment to any employee at any time they deem suitable

(i) Shri V. K. Joseph will be paid one increment (Rs. 16/-) with effect from 1st July 1961.

(ii) Shri Dara Singh will be paid one increment (Rs. 16/-) with effect from 1st August 1963.

2. This agreement will not be treated as precedent in future.

3. The award of the above increments will finalise these cases, and it is agreed that in these cases no question of the Calculation of the past overtime, bonus etc., will be considered. It is also agreed that the whole question of increment for Heavy Equipment Operators upto the present date has been settled.

#### *Representatives of the Company:*

1. Shri L. A. HILL,  
Superintendent.
2. B. N. PARIDA, Welfare Officer.

#### *Representatives of the workmen*

1. Shri BAIRAGI JENA,  
President.
2. Shri JAMINI RANJAN DASH,  
General Secretary.

Witness: (1) Sd./- Illegible.

#### BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL BHUBANESWAR ORISSA.

In the matter of Industrial Dispute Case No. 7 of 1963.

AND

In the matter of,

Employers in relation to the Bolani Ores Iron Mines of Messrs. Bolani Ores Ltd. Barbil, Dist. Keonjhar.

AND

Their Workmen represented by the Barbil Workers Union, P.O. Barbil, Dist. Keonjhar, Orissa.

The parties in a Joint Meeting on 25th August 1963 have come to a mutual settlement as enclosed herewith, and pray the Court to pass the award accordingly.

For and on behalf of  
Barbil Workers' Union.

Sd/- J. R. DAS,  
General Secretary,  
Barbil Workers' Union.

Attached to the award in  
Dispute No. 7/63.

Sd/- I. C. MISRA,  
Presiding Officer,  
Industrial Tribunal.

Sd/- BAIRAGI CH. JENA,  
President.

For and on behalf of  
Messrs. Bolani Ores Limited.

Sd/- L. A. HILL,  
Superintendent,  
Bolani Ores Limited.

Sd/- B. N. PARIDA,  
Welfare Officer.

[No. 23/15/63-LRII.]

New Delhi, the 18th September 1963

S.O. 2770.—In pursuance of section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the following award of the Industrial Tribunal, Bombay, in the industrial dispute between the employers in relation to the South Jhaerakhand Colliery and their workmen, which was received by the Central Government on the 10th September, 1963.

## BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL, BOMBAY

REFERENCE No. CGIT-24 OF 1963

Employers in relation to the South Jhagrakhand Colliery

AND

Their Workmen.

PRESENT:

Shri Salim M. Merchant, Presiding Officer.

APPEARANCES:

*For the employers:* Shri G. R. Bhandari, Chief Welfare Officer with Shri R. G. Gupta, Manager, South Jhagrakhand Colliery and Shri K. N. Shrivastva, Manager, North Jhagrakhand Colliery.

*For the workmen:* Shri Gulab Gupta, General Secretary and Shri Ganga Prasad Sharma, Secretary, Madhya Pradesh Colliery Workers' Federation, Chirimiri.

INDUSTRY: Coal Mining.

STATE: Madhya Pradesh.

Bombay, dated the 7th September 1963

## AWARD

The Central Government, by the Ministry of Labour & Employment's Order No. 5/31/63-LRII dated 18th May 1963, made in exercise of the powers conferred by clause (d) of sub-section (1) of section 10 of the Industrial Disputes Act, 1947 (Act XIV of 1947), was pleased to refer the industrial dispute between the parties above-named, in respect of the subject-matters specified in the following schedule to the said Order, to me for adjudication.

## SCHEDULE

"Whether the management of M/s. Jhagrakhand Colliery Private Ltd. are justified in forcing Shri Chandrabhan Prasad Sharma, Traffic Tub Munshi of South Jhagrakhand Colliery, to work as Mining Sirdar in their North Jhagrakhand Colliery and marking him absent from duties for his having refused to carry out these orders. If not, to what relief is he entitled?"

2. After the General Secretary of the Madhya Pradesh Colliery Workers' Federation (hereinafter referred to as the union) had filed his written statement dated 26th June 1963, to which the Jhagrakhand Colliery Private Ltd., (hereinafter referred to as the company) had filed its written statement in reply dated 19th July, 1963, the dispute was fixed for hearing at Chirimiri on 28th August 1963 and was concluded on 29th August 1963.

3. The facts of the case are that the workman, Shri Chandrabhan Prasad Sharma, joined the services of this colliery about 9 years ago as Loading Mazdoor. After working as chaprasi for some time he was transferred underground as Traffic Tub Munshi (TTM) which post he was holding at the relevant date. It is admitted that he appeared for the Mining Sirdar's examination on 10th December 1961 and obtained the Mining Sirdar's Certificate on 17th January 1962, whilst in the service of this company. It is further admitted that on his being so qualified the company by appointment letter dated 29th January 1962, appointed him as a Mining Sirdar under Regulation 36 of the Indian Colliery Mines Act, 1962. The counterfoil of the said appointment order in the company's record does not state that Chandrabhan's appointment was valid only for the days he was required to work as such, but this endorsement appears in the slip issued to him (see exhibit E2 and Exhibit W1). It is, however, the admitted position that Chandrabhan after he qualified as Mining Sirdar used to work as such in the South Jhagrakhand Colliery whenever required but that his designation continued to be Tub Traffic Munshi (TTM) and he was drawing wages of a TTM, in the scale of Rs. 43-3-82 fixed by the Muzumdar Award, as modified by the decision of the Labour Appellate Tribunal, under which Mining Sirdars have been classified into four grades. The scale of pay for Mining Sirdars, Grade I is Rs. 55-3-85 and for Mining Sirdars Grade II, is Rs. 52-3-73. It is necessary before stating further facts to mention that this company owns three collieries, viz. the South Jhagrakhand Colliery, the North Jhagrakhand Colliery and the East Jhagrakhand Colliery. The North Jhagrakhand Colliery is situated

at a distance of about  $1\frac{1}{2}$  mile from the South Jhagrakhand Colliery, where Chandrabhan was admittedly working.

4. The trouble in this case started with the Agent's letter dated 26th June 1962, addressed to Chandrabhan, in which after referring to the discussion which Shri K. N. Shrivastava, the manager, North Jhagrakhand Colliery had with Chandrabhan, in the presence of Shri R. G. Gupta, Manager, South Jhagrakhand Colliery and his (Chandrabhan's) subsequent verbal consent, he was informed that he was transferred to North Jhagrakhand Colliery as a Mining Sirdar. He was asked to approach the Manager, North Jhagrakhand Colliery, for the allotment of his duties and quarters immediately but not later than 1st July 1962. He was further informed that the fixation of grade, etc. would be decided by the Manager, North Jhagrakhand Colliery (Part of exhibit E1 collectively). To this, Chandrabhan replied by his letter dated 9th July 1962, in which he stated that he would have joined his duties at North Jhagrakhand Colliery to which he had been transferred, if he had not fallen ill. He further requested that he may not be transferred to North Jhagrakhand Colliery till October 1962, after which he could obey the orders of transfer and build his career. He stated two grounds in support of the request for time to join his duties at North Jhagrakhand Colliery. The first was that he would make some arrangement for his family and second that if he is to be transferred he would not be able to study for the Overman's Examination which was to be held on 24th October 1962. On this application of his, the order of transfer dated 26th June 1962 was kept in abeyance till 1st November 1962. I may here note that Chandrabhan appeared for the Overman's examination, but was not successful. On 22nd February 1963, the Agent of the colliery wrote to Chandrabhan stating that he had been transferred to North Jhagrakhand Colliery by his earlier order dated 26th June 1962 and that he had kept that order in abeyance upto October 1962, as desired by Chandrabhan. He stated that the Manager, North Jhagrakhand Colliery, wanted him immediately and, therefore, asked him to report for duty there immediately. To this, Chandrabhan replied by his letter dated 24th February 1963 that he was ill and under medical treatment and was unable to move out unless he was declared fit to resume duties. In his letter he requested that he should be informed of the class of Mining Sirdar, grade and scale and other facilities, starting pay, etc. to enable him to decide which would be more beneficial to him to accept the transfer or to remain at South Jhagrakhand colliery and requested that in the meantime the order of transfer may be kept in abeyance. With regard to the other facilities, he enquired whether the quarters he would get would have light with water-tap and latrine and whether he would be paid coal allowance, etc. To this the Agent replied on 4th March 1963, informing him that he would be put in Grade II for Mining Sirdars which carries the pay-scale of Rs. 52—3—73 and that he would be given a starting basic pay of Rs. 64/- per month from the date of joining. I may pause here and state that at that time Chandrabhan's pay as TTM in the South Jhagrakhand Colliery was Rs. 61/- and the Agent was thus offering him one additional increment in the pay-scale of Mining Sirdar, Grade II. He was further informed that he would be allotted a pucca quarter and that the facilities which he was the getting at South Jhagrakhand Colliery would not be discontinued and that no further facilities would be granted. Chandrabhan addressed a letter to the Agent on 5th March 1963, in which he stated that as the grade and scale and allotted quarter, etc. were not favourable and agreeable to him, he was sorry to say that he would not be able to join at North Jhagrakhand Colliery until everything was settled favourably and justifiably. He stated that he has been declared fit to resume duties and that he would go to his duties on 6th March 1963. He requested that the transfer order be cancelled or that he be allowed to resume duties as TTM in South Jhagrakhand Colliery till the final decision of his pay, grade, quarter, etc. is made. To this letter, the Agent of the Colliery replied by his letter dated 6th March 1963, stating that Chandrabhan had no grievance with regard to the emoluments because he was offered a higher grade than what he was then drawing. With regard to the facilities, the Agent stated that he had already been informed that he would continue to get the facilities which he was now enjoying and that he would also get a pucca quarter. The Agent stated, "therefore you have no excuse for refusing the transfer". He also stated that according to the Standing Orders, the company had the right to transfer staff from one colliery to another colliery if it was necessary to do so and the company was exercising that privilege. He recorded that he had obtained postponement of the order of transfer under various excuses and that the postponement had been granted in the hope that he should afterwards not raise any objection but he was doing so now. He denied that he was entitled to any facilities other than what he was getting then. The Agent concluded his letter by stating "therefore, I advise you to follow my orders. Otherwise, you would be left unemployed and

at no time in future you will get an opportunity to be promoted to Sirdar". To this Chandrabhan replied on 6th March 1963 stating that the transfer was sought as a promotion and that it was natural for him to expect some extra facilities. He complained that whilst his present scale of pay is Rs. 46—3—82, he was being put in the lower scale of Rs. 52—3—75 as Mining Sirdar, Grade II. He stated that he was getting an extra allowance for rescue work and that he was occupying a 2 room quarter with a compound, bath room, etc., while the pucca quarter allotted to him at North Jhagrakhand Colliery had lesser facilities. He contended that the transfer was illegal and unjustified; that his service had been refused at North Jhagrakhand Colliery by his being degraded and at South Jhagrakhand Colliery by not being allowed to work there and that he had been compelled to sit idle and kept out of employment, that he would hold the company responsible for all the loss suffered by him and for the period of idleness. To this letter, the Agent replied on the same day stating that his complaints were without foundation as he was being made a Mining Sirdar on a higher pay than he was getting and he further stated that the maximum in the grade would not be less than the maximum in his present grade as TTM. He further stated that he would have the opportunity to qualify as an Overman when the maximum would be higher than the Sirdar's maximum. He further stated that his rescue training is paid for separately from the salary. He warned him that if he continued to sit idle he would not be sent to the refresher training and his rescue training qualification would lapse. Shri Hearn, the Agent, in his letter stated, "you are being given a good chance for advancement which you are foolishly throwing away. There are no prospects for further advancement as a T.T. Munshi. There is nothing illegal in your transfer. The quarter you are offered has a tap."

5. To this, Chandrabhan replied on 7th March 1963, that he was ready to go to North Jhagrakhand Colliery and hence he had been requesting the management again and again to consider his case for grade and facilities. He admitted that he was being made a Sirdar on a higher pay but he was not prepared to lose the higher maximum of his present pay in the hope that he would get an opportunity to qualify as Overman, but curiously enough in the same letter he stated that he did not care for his future promotion if he remained as T. T. Munshi. He stated that since it was the company which required the services of a Sirdar and as he was not anxious to be appointed as Sirdar, he should be given some extra facilities and amenities instead of suffering a loss in his wages. He, therefore, prayed the following benefits to enable him to resume duties, at North Jhagrakhand Colliery.

- (i) Grade and scale of Rs. 61—3—85 (Grade I Sirdar) with two special increments.
- (ii) Rs. 30/- for rescue training.
- (iii) Quarter in which one Sri Khadim Bux was living and water tap with bath-room etc.
- (iv) Electric light or kerosene oil as other staff get instead.
- (v) Coal carrying allowance or free supply of coal.
- (vi) Pay for the days of idleness forced.

He stated that he would take up his duties at North Jhagrakhand Colliery as soon as the above points were decided.

6. To this the Agent of the colliery replied on 9th March 1963, stating that as he was already informed, the maximum in his grade of Mining Sirdar would not be less than his present maximum as T.T. Munshi. He further stated that Chandrabhan could not claim to be put in Grade I as he had never been a Sirdar but assured him that his emoluments would not be less. With regard to rescue training, he told him that he will continue if he obeyed the orders. With regard to Chandrabhan's claim for the quarters of Khadim Bux, he was informed that Khadim Bux was an Overman and that as a new Sirdar he could not claim a quarter superior to what was given to old working Sirdars. With regard to his claim for electric lights or kerosene oil, he was informed that he had no claim for electric light or kerosene oil under the Award and that those who were getting the benefits were getting it prior to the Award. The same objection was made to his claim for coal allowance or free supply of coal. The Agent once again pointed out that Chandrabhan was forcing idleness upon himself as the management had offered him work. The South Jhagrakhand Colliery Branch Union of the Madhya Pradesh Colliery Workers' Federation, then took up the matter on behalf of Chandrabhan and its President, Shri B. Singh, addressed a letter on

16th March 1963 to the Agent and Mining Engineer, in which he complained that Chandrabhan had been transferred to North Jhagrakhand Colliery by the management's letter of 22nd February 1963, without mention of any grade, scale of pay facilities, etc. but that thereafter at his request he had been placed in the second grade of Mining Sirdars on the pay-scale of Rs. 52—3—73, without any extra facilities being offered. The letter stated that as T.T. Munshi the maximum of his grade was higher than that of Mining Sirdar, Grade II and that he was enjoying better facilities regarding quarters, compound, etc. at South Jhagrakhand Colliery. He, therefore, demanded suitable grade of pay, quarters and stated that Chandrabhan had been stopped from work at South Jhagrakhand Colliery and was forced to remain idle, which amounted to indirect suspension. He stated that Chandrabhan was the Joint Secretary of the South Jhagrakhand Colliery Branch Union and that the action of the management smacked of victimisation. He concluded the letter by stating, "therefore, I request you to allow him to work at South Jhagrakhand Colliery with full wages for the period of idleness, until and unless he is granted all the facilities and amenities equal to or more than what he is getting at present provided he should be placed in the Sirdar's Grade." To this the Agent of the Company replied on the same day stating that Chandrabhan had been transferred to North Jhagrakhand Colliery at a wage scale higher than what he was getting and he had already been informed that the maximum of his scale would not be less than his present maximum and, therefore, the Union's allegation that Chandrabhan was transferred on a lower pay was false. With regard to the other amenities the Agent replied that Chandrabhan would get what he was getting and that he had no claim for any extra amenities as there was nothing in the Award giving compounds, taps, lights, etc. to Mining Sirdars. He further stated that it was in order for the management to transfer an employee from one colliery to another according to the Standing Orders provided his amenities and wages were not reduced and that had been observed in this case. With regard to the union's allegation that Chandrabhan had been victimised because he was the Joint Secretary of the branch union, the Agent stated that he was totally unaware that Chandrabhan was the Joint Secretary of the South Jhagrakhand Colliery Branch Union and that the allegation of victimisation was false. The Agent further went on to observe that Chandrabhan had in one of his letters stated that he would prefer to remain as T.T. Munshi in the South Jhagrakhand Colliery and not be promoted to the post of Sirdar and he stated that if Chandrabhan preferred this he could withdraw the order of transfer, that it would then be understood that if any vacancy of the Sirdar arose later, he having refused his chance, would not get it again in the future, and that if Chandrabhan accepted this condition, he would withdraw the transfer order. To this, the President of the Union replied by his letter dated 18th March 1963, which is the test letter of the correspondence that passed between the party, in which he contended that Chandrabhan was being degraded because he was being placed in the pay-scale of Mining Sirdar, Grade II with a maximum higher than the maximum for Grade II which was the same as the maximum of the pay-scale for T.T. Munshi. He claimed that he was entitled to be placed in Sirdar, Grade I in the scale of Rs. 61—3—85. He argued that as the company offered a quarter in North Jhagrakhand Colliery, which was smaller than the one occupied by him at the South Jhagrakhand Colliery which consisted of 4 rooms, open verandah kitchen, big compound with bath rooms, etc. the company was curtailing the present facilities and this was against the terms of the Award in force. As regards the Agent's offer that he would keep him as T.T. Munshi, the union stated that though Chandrabhan would prefer to be so he had never refused the Sirdar's job, but he stated that he would even in the event look for being appointed as Sirdar with legitimate pay-scale and facilities. He concluded the letter by requesting the Agent to allow him to continue to work in South Jhagrakhand Colliery with full back wages.

7. Neither party at the hearing led oral evidence and both parties have replied upon the documents tendered by them at the hearing. On these facts, the first submission made by Shri Gulab Gupta on behalf of the Federation has been that as the two jobs of T.T. Munshi and Mining Sirdar are different, the company was not justified in transferring Chandrabhan, who was a T.T. Munshi to the post of Mining Sirdar in the North Jhagrakhand Colliery. According to him though both T.T. Munshi and Mining Sirdars work in the same department, their jobs are entirely different, as the Mining Sirdar's job requires skill which is only acquired by passing a test and that there was no express conditions of service by which the company could ask Chandrabhan to accept transfer in North Jhagrakhand Colliery. He argued that this was not a case of transfer, but rather that of a promotion and, therefore, the company could not force the promotion on Chandrabhan.

8. On the other hand the management, relies on the provisions of its Certified Standing Order No. 30 which provides as follows:—

“All workmen are liable to be transferred from one department to another or from one station to another or from one colliery to another under the same management provided such transfer does not cause any prejudice to their wages and their conditions of service.”

9. Shri Gulab Gupta does not question the right of the management to transfer an employee from its South Jhagrakhand Colliery to its sister colliery, the North Jhagrakhand Colliery. But what he says is that the transfer could not be forced on Chandrabhan because it was not transfer from one department to another but it was a transfer, and in a sense a promotion, from one job to another, viz. from the job of T.T.M. to that of Mining Sirdar.

10. The management's reply to this is that both the jobs of T.T.M. and Mining Sirdar are of the Raising Department in the colliery and, therefore, they must be treated as jobs of the same department. On behalf of the management it was also urged that, as the correspondence indicates, Chandrabhan had not objected to his transfer as Mining Sirdar, but that he had at more than one place in the correspondence stated that he had accepted the transfer and was prepared to go there but that he had thereafter raised difficulties about the grade of Mining Sirdar in which he was to be placed and the other conditions of service applicable to him. The management has stated that the transfer was justified under the Standing Order No. 30 of the company as Chandrabhan had qualified and was working as a Mining Sirdar and has been authorised to do so by the company's authorisation (exhibit E2 and exhibit W1).

11. It appears to me that there is considerable substance in what the management has urged. It can be seen from his very first letter dated 9th July 1962 (exhibit E-12), that Chandrabhan had accepted the transfer to North Jhagrakhand Colliery as Mining Sirdar and that the order of transfer dated 26th June 1962, was issued to him after he had given his verbal consent to the transfer in the presence of Shri Shrivastava, the Manager, North Jhagrakhand Colliery, and Shri R. C. Gupta, the Manager of the South Jhagrakhand Colliery. It is significant that Chandrabhan by his letter dated 9th July 1962, asked that the order of transfer should be kept in abeyance till October 1962, to enable him to appear for the Overman's examination, to which the company consented. In his letter of 9th July 1962, he had clearly stated, with reference to the company's transfer order dated 26th June 1962, that he would have joined his duties at North Jhagrakhand Colliery if he had not fallen ill. In fact he concluded that letter by requesting the management to allow him some time to comply with the company's orders. By its letter dated 22nd February 1963 [Exhibit E1(14)], the company asked Chandrabhan to report for duty at the North Jhagrakhand Colliery but he once again pleaded illness and raised the question about what grade he would be placed in and what facilities regarding quarters, light, etc. he would get. I am giving these details because in the terms of reference, the question to be decided is whether the management of M/s. Jhagrakhand Colliery were justified in forcing Chandrabhan to work as Mining Sirdar in the North Jhagrakhand Colliery. It will be seen from what I have stated earlier that Chandrabhan had all along expressed his willingness to go to North Jhagrakhand Colliery but was claiming certain grade and other amenities the justification of which claims I shall discuss presently. As Chandrabhan had clearly in his letters expressed his willingness to accept the transfer to North Jhagrakhand Colliery as Mining Sirdar, there can be no question of the management having coerced him into it. In my opinion, the company was also within its rights under the provisions of its Standing Order No. 30 to transfer Chandrabhan to North Jhagrakhand Colliery. I do not think that there is much substance in the contention that transfer to North Jhagrakhand Colliery as Mining Sirdar was a promotion, inasmuch as though Chandrabhan was designated as T.T.M., he had qualified and was authorised to work as Mining Sirdar in the South Jhagrakhand Colliery. I am not all impressed by Shri Gulab Gupta's contention that the transfer contemplated by Standing Order No. 30 must be a transfer from one department to the same department in another colliery and did not include transfer from one job to another job. In my opinion, in this case there was no question of transferring Chandrabhan to another job because he was already qualified and authorised to work as Mining Sirdar and the company transferred him to the North Jhagrakhand Colliery as Mining Sirdar, which transfer, in fact, as the correspondence clearly shows, Chandrabhan had accepted verbally before the transfer order of 26th June 1962 was issued, and which acceptance he further confirmed by his very first letter dated 9th July 1962. He, however, later raised claims which I proceed to discuss. No doubt, the company's transfer order dated 26th June 1962, stated that the fixation of wages, grade, etc. would be decided by the Manager, North Jhagrakhand Colliery, but Chandrabhan in his letter of 9th



July 1962, by which he conveyed the acceptance of his transfer, raised no objection to it. In fact, in that letter he requested the company not to transfer him till October 1962, because he was ill and was to appear for the Overman's examination. In fact, he then wanted only time to "obey the company's orders and build up my career". Now, as T. T. Munshi, Chandrabhan was in the scale of pay of Rs. 43-3-82 and the Mining Sirdars have four grades of which the two grades relevant for the purposes of this case are Grade I which is Rs. 55-3-85 and Grade II which is Rs. 52-3-73. The T. T. Munshi's grade had a higher maximum and at first Chandrabhan raised the objection that he would be prejudiced if he were to be put in the scale of Rs. 52-3-73 as Mining Sirdar Grade II, as he would thereby have a grade of pay with a lower maximum salary. When this objection was raised the management immediately offered to raise the maximum of Mining Sirdar, Grade II to Rs. 82/- so that Chandrabhan would not be prejudiced. It also offered him one additional increment for being appointed as Mining Sirdar, Grade II. Later, Chandrabhan stated that he was entitled to be placed in the scale of Mining Sirdar, Grade I which is Rs. 55-3-85 and he demanded two additional increments in that scale. The management, in my opinion, rightly declined to accede to this demand. Its case is that as Chandrabhan has passed the Mining Sirdar's Certificate Examination on 10th December 1961 and had obtained the certificate on 17th January 1962, he could not with any justification claim to be placed in Mining Sirdar's, Grade I scale, as there were many Mining Sirdars senior to him and with longer experience in the North Jhagrakhand Colliery, who were still in the Mining Sirdars Grade II and Grade III. The Mazumdar Award has prescribed qualifications for Mining Sirdars, Grade I, and there is not the least doubt that Chandrabhan who had only got the Mining Sirdar's Certificate in January 1962, was not qualified to be appointed as Mining Sirdar, Grade I. In my opinion, his claim to be placed in Mining Sirdar, Grade I, was thoroughly unjustified and the management was perfectly justified in refusing to grant that scale of pay to him. On an anxious consideration of the facts and circumstance of the case, I am more than satisfied that Chandrabhan was not being prejudiced in any manner in respect of his wages for being transferred to North Jhagrakhand Colliery.

12. The next ground on which the transfer is objected to was that Chandrabhan was being prejudiced in the matter of the other terms and conditions of service, available to him at South Jhagrakhand Colliery. His main grievance was that at North Jhagrakhand Colliery, he was not being provided quarters of the same size and having the same amenities as those he was occupying in South Jhagrakhand Colliery. What the company offered to him in the North Jhagrakhand Colliery were quarters of the type which were being occupied by other Mining Sirdars of that Colliery. But surprising as it may seems, Chandrabhan laid claims to the quarter which were formerly occupied by one Shri Khadim Bux, an Overman, and refused to accept quarters of the type provided for Mining Sirdars. Now, as pointed out by the Agent in his reply dated 9th March 1963 [exhibit E-1(12)], Khadim Bux was an Overman and, in my opinion, the Agent was perfectly right in stating that as a new Sirdar, Chandrabhan could not claim a quarter superior to those occupied by older Mining Sirdars. With regard to his claim for rescue training allowance, the manager had guaranteed the same to him by his letter dated 6th March 1963, provided he obeyed orders. With regard to the electric light and kerosene oil and for coal allowance or free supply of coal, the management rejected the same as being unjustified under the Award as under the Mazumdar Award these benefits were protected for only those who were getting it before the Mazumdar Award and nothing was stated at the hearing to support this claim put forward by Chandrabhan.

13. On a careful consideration of the facts and circumstances of the case, I am more than satisfied that in transferring him to North Jhagrakhand Colliery, the company was not causing any prejudice to him in his remuneration or the other conditions of his service. In my opinion, Chandrabhan after having first accepted the transfer, later made a demand for wages and conditions of service to which he could lay no claim with any justification.

14. Now, it appears that after he was certified to be fit to resume duties from 6th March, 1963, the management did not allow him to join his duties as T.T.M. but asked him to accept the transfer to North Jhagrakhand Colliery as Mining Sirdar. No doubt, in his letter dated 16th March 1963 [exhibit F-1(14)] the Agent offered to withdraw his transfer order but that was on the condition that he then would remain in the South Jhagrakhand Colliery as T.T.M. and would not be entitled to be promoted as Mining Sirdar. The Agent in his letter stated as follows:—

"In one of his letter to me he (Chandrabhan) has stated that he would prefer to remain here as a Traffic Munshi and not be promoted to Sirdar. If he prefers this, I can withdraw the order of transfer but it will be understood that if any vacancy for a sirdar arises later,

he having refused his chance now will not get it again in future. If he likes to accept this condition, I shall withdraw the transfer order".

But the Union's President's letter dated 16th March, 1963, this offer was not accepted. In that letter it was stated that Chandrabhan would like to have promotion as Mining Sirdar with legitimate pay-scale and facilities which he had already brought to the company's notice many a times. In my opinion, Chandrabhan was sitting on the fence because in the beginning he had accepted his transfer but later made unjustifiable conditions and wanted to reside from that position. He half-heartedly stated that he was prepared to remain as T. T. Munshi but, when the management pointed out that he would in that event not be entitled to be promoted as Mining Sirdar, he having refused to go as Mining Sirdar to the North Jhagrakhand Colliery and having preferred to remain as T. T. Munshi only he was not prepared to accept that condition. I think that the correspondence reveals that the Agent was perfectly right when he stated in his letter of 6th March, 1963 that Chandrabhan was being given a chance for advancement which he was foolishly throwing away.

15. It only remains now to refer to some of the authorities relied upon by both the parties. Shri Gulab Gupta has mainly relied on the Award of the Madras State Tribunal reported in the case of *Andhra Patrika Vs. their workmen* (1957 I LLJ. p. 154). In that case, the Learned Tribunal, held that the transfer of a sub-editor of a newspaper to the post of a reporter must be considered as a reduction in status and, therefore, held the dismissal of a sub-editor for disobeying the order transferring him to the post of a reporter as improper and unjustified, and granted him the relief of reinstatement with full wages. In that case, the learned Tribunal on the evidence with regard to the duties of a sub-editor and a reporter, came to the conclusion that even though both may belong to the journalistic profession, the nature of their work is really distinct and different. The learned Tribunal observed that with the advance of time specialisation has become the order of the day in special branches of knowledge and that a person who is confined himself to one branch of the profession would find himself a misfit if he is called to do any kind of work. But in this case the facts are completely different. It is not denied that Chandrabhan had qualified himself as a Mining Sirdar, whilst working as T.T.M. and that the company had issued the authorisation certificate authorising him to do the work of a Mining Sirdar in the South Jhagrakhand Colliery. Therefore, it cannot be stated by any stretch of imagination that his transfer to the North Jhagrakhand Colliery as a Mining Sirdar has resulted any reduction in status or that he was a misfit for the job of Mining Sirdar. Besides, as I have pointed out Chandrabhan had at the very outset accepted his appointment. I, therefore, hold that this authority can have no application to the facts of the instant case.

16. The management on the other hand has relied on the decision of the Hon'ble Supreme Court in the case of the *Barielly Electricity Supply Co. vs. Sarajuddin & Others* (1960 I LLJ p. 556) where their Lordships held that transferring a cooly from one department to another is a matter of internal arrangement and industrial tribunals should be very careful before they interfere with the orders made in the discharge of the management functions in such behalf; that it is hardly necessary to emphasise that the findings of the *malafides* could be made by the industrial tribunal only after sufficient reliable evidence is led in support of it. Such a finding should not be made in a light-hearted or in a casual manner. The management has also relied upon the decision of a Division Bench of the Patna High Court in the case of *Bata Shoe Co. Ltd. and Ali Hasan, Industrial Tribunal, Patna & Others* (1956 I LLJ. p. 278), where it was held that transferring an employee from one post to another post without prejudicially affecting his service conditions and earnings could not be considered to be alteration of any service condition. Though that case was decided within the ambit of the provisions of section 33 of the Industrial Disputes Act, the general proposition stated there can well be applied to cases of transfer ordered by the management in exercise of their managerial functions. In this case as I have already held that the transfer of Chandrabhan to North Jhagrakhand Colliery did not in any way prejudice him with regard to his wages and with regard to the terms and conditions of his service, the observations of their Lordships in the above cited case can also support this company's case.

17. The management has also relied upon the judgement of the Labour Appellate Tribunal in the case of *Uttar Pradesh Mazdoor Union and British India Corporation Ltd. (Kanpur Cotton Mills Branch)* (1956 I LLJ. p. 592) where it was held that it is the undoubted right of the management to transfer an employee for the purpose of its business and that even in cases where there is no provision

In the Standing Orders authorising employers to transfer its workmen, the employers has the undoubted right to transfer for the purposes of business.

18. Therefore, on an anxious consideration of the facts and circumstances of the case and the authorities cited before me by both the parties, I am of the opinion that the management of the Jhagrakhand Colliery was justified in transferring Shri Chandrabhan Prasad Sharma, Traffic Tub Munshi of the South Jhagrakhand Colliery as Mining Sirdar to the North Jhagrakhand Colliery and marking him absent from duties for his having refused to carry out these orders. As I have already indicated, I am satisfied that Shri Chandrabhan Prasad Sharma himself having accepted the transfer, there is no case for saying that the management has forced Shri Chandrabhan Prasad Sharma to work as a Mining Sirdar in the North Jhagrakhand Colliery. Since I have decided the issue in favour of the management, I must hold that Shri Chandrabhan Prasad Sharma is not entitled to any relief.

No order as to costs.

(Sd.) SALIM M. MERCHANT,

Presiding Officer,

Central Government Industrial Tribunal,  
Bombay.

[No. 5/31/63-LRII.]

*New Delhi, the 21st September 1963*

**S.O. 2771.**—In exercise of the powers conferred by section 4 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby makes the following amendment in the notification of the Government of India in the Ministry of Labour and Employment No. 3254, dated the 17th October, 1962, namely:—

In the Table annexed to the said notification, against serial Nos. 35 to 38, in column 3, for the entries "The States of Madras, Mysore and Kerala", the entries "The States of Madras, Mysore, Kerala and the Union territory of Pondicherry" shall be substituted.

[No. F.1/50/63-LR.I]

**S.O. 2772.**—In pursuance of section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the following award of the Industrial Tribunal, Dhanbad, in the industrial dispute between the employers in relation to the 6 and 7 Pits Colliery owned by Messrs. Tata Iron and Steel Company Limited, Jealgora and their workmen, which was received by the Central Government on the 16th September, 1963.

#### **BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL, DHANBAD**

In the matter of a Reference under Section 10(1)(d) of Industrial Disputes Act, 1947 (XIV of 1947).

REFERENCE No. 47 OF 1962

#### **PARTIES:**

Employers in relation to the 6 and 7 Pits Colliery owned by Messrs. Tata Iron and Steel Co. Ltd. Jealgora.

AND

Their workmen.

#### **PRESENT:**

Shri Raj Kishore Prasad, M.A., B.L., Presiding Officer.

#### **APPEARANCES:**

For the Employers: Sri S. N. Singh, Welfare Officer of the Company.

For the Workmen: Shri P. Chanda with Sri Anil Sarkar, Tata Collieries Workers' Union.

STATE: Bihar.

INDUSTRY: Coal.

Patna, dated the 21st July, 1963

### AWARD

Ministry of Labour and Employment, Government of India, by its Order No. 2/112/62-LR.II, dated the 27th November, 1962, referred under Section 10(1)(d) of the Industrial Disputes Act, 1947, the industrial dispute existing between the employers in relation to 6 and 7 Pits Colliery owned by Messrs. Tata Iron and Steel Co. Ltd. and their workmen for adjudication to this Tribunal in respect of the matter specified below:

"Whether the dismissal of Sarvashri Basdev Pasman, Bhairo Mondal and Upendra Mondal, Miners, by the management of Jamadoba 6 and 7 Pits Colliery owned by Messrs. Tata Iron and Steel Co. Ltd. P.O. Jealgora (District Dhanbad) was justified? If not, to what relief are they entitled?"

2. The Tata Collieries Workers' Union, representing the workmen concerned, filed a written statement on their behalf on 3rd January 1963; and the management also filed its written statement, by way of rejoinder on 12th February, 1963.

3. The main case of the workmen in their written statement is that their dismissal by the Assistant Chief Mining Engineer from the 9th August 1962 was illegal and without jurisdiction and in violation of the principles of natural justice with the *malafide* intention to victimise them; that the charge sheet against the workmen concerned for robbing coal pillar at 23½ East Leve on 10th July 1962 in B Shift and thereby violating Standing Order 19(19) and Regulation 115(1) of the Mines Regulations, 1957, was false and deliberately fabricated; that the domestic enquiry held by the management was a mere show of enquiry and nothing but farce, in as much as, principles of natural justice were denied to the workmen concerned, in that, their witnesses were not examined by the Enquiry Officer although an express desire was made by the said workmen, and some valuable witnesses were not examined by the management although they were available and the workmen were denied the right of cross-examination of management's witnesses; that the domestic enquiry was highly improper and irregular and the finding of the Enquiry Officer was baseless and also perverse, and unjustified; that the action of the management in dismissing the workmen was *malafide*, in as much as, the workmen concerned have been punished for making a joint complaint to the higher authority of the management against the Assistant Manager of the Colliery in connection with an accident which occurred before the date of the charge sheet and also for their appearance as witnesses in defence for Shri Singeshwar Mondal in a departmental enquiry against him on a similar charge; and, that, therefore, the dismissal of the workmen concerned was by way of victimisation and as such it should be set aside and they should be reinstated in their original post with full back wages.

4. The defence of the management, as mentioned in the written statement and as put forward before the Tribunal, was that on 10th July 1962 at 12.30 A.M. the workmen concerned were in B shift duty and their assigned face was 24½ west level, but they were found by the Mining Sirdar during his inspection robbing pillar at 23½ East Level, which violated the Mining Regulations; that for the said misconduct on 13th July 1962 charge sheets were issued to the three miners concerned to which they submitted explanations and thereafter a departmental enquiry was held in their presence wherein they were given full chance and opportunity to cross-examine witnesses and also to produce their witnesses in defence; that at the said enquiry the misconduct of the workmen concerned was proved and, therefore, they were dismissed by a letter dated 6th August 1962; and that, therefore, the workmen having been dismissed for misconduct their dismissal was *bonafide*, justified and as such they were not entitled to any relief.

5. The Management, in support of its case, examined M.W.1 Sri N. Sen, Welfare Officer, who held the departmental enquiry; M.W.2, Sri D. Ram, Under Ground Munshi of 6 and 7 Pits of Tatas Collieries and M.W. 3 Sri Haru Gosain Miner of 6 and 7 Pits and also filed documents, which were marked as Exhibit M to M.21.

6. The workmen also examined A. Sirkar W.W.1, a Clerk of the Digwadih Colliery; Upendra Mondal one of the three miners workmen concerned, W.W. 2; and also filed documents which were marked as Exhibits W to W.21.

7. The admitted facts material for deciding this reference are necessary to be stated for a proper appreciation of the points raised by the parties. They are these:

(a) On 10th July 1962 the three miners workmen were working in 'B' Shift, which means, according to the evidence of M.W. 2, that their duty hours, which are for all miners, was 5 P.M. to 1 A.M. and their assigned face was 24½ West Level as proved by Exhibit M. 21 and evidence of M.W. 2. M.W. 2 admitted that J. L. Misir was the Mining Sirdar of 'B' Shift of 10th July 1962 who has not been examined either before the Enquiry Officer or before this Tribunal. It is further admitted that G. C. Roy, whose statement before the Enquiry Officer is Exhibit M. 14, was working on 10th July 1962 in the 'C' shift and the time of a Mining Sirdar of 'C' shift is 11.30 P.M. to 7.30 A.M., which was G. C. Roy's timing also;

(b) On 10th July 1962 at 12.30 A.M. the Mining Sirdar G. C. Roy of 'C' Shift found two miners, who are amongst the workmen concerned in the reference, robbing pillar at 23½ East Level which was not their assigned face. G. C. Roy, the Mining Sirdar then showed the said robbing of coal to Sri Haru Gorain and Prasadi; the statements of Prasadi Ram before the Enquiry Officer are Exhibits M. 11 and M. 15. Sri Haru Gorain, M.W. 3, who was examined here, was not examined before the Enquiry Officer, as will appear from the statements of Prasadi Ram Exhibits M. 11 and M. 15 and of Sri G. C. Roy, Exhibit M. 14.

(c) On the next day on 11th July 1962, G. C. Roy submitted a complaint Exhibit M. 12 to the Manager of the Colliery in which it was mentioned that H. Mondal and his gang of miners robbed the 23½ east level on 10th July 1962 in 'B' shift and the names of the three miners, who are the workmen concerned, were also given.

It may be mentioned here that previously it was mentioned as Haru Mondal but later Haru was penned through and in its place Bhairo Mondal was written and miner Bhupendra Mondal was corrected to Upendra Mandal.

In this complaint Exhibit M. 12 two witnesses mentioned were Prasadi Ram and Hari Gorain M.W. 3, whose statements are Exhibits M. 11 and M. 15 and Hari Gorain, M.W. 3.

It may further be mentioned at this very place that Exhibit M. 21, which is Munshi's report of 10th July 1962 of B Shift shows that in 24½ West level, the assigned face, the miners working were (1) Badeb Pashman, (2) Bhairoo Mandal and (3) Upendra Mondal, and others were absent. In 23½ east level the miners, who had been assigned this face, were Sibru Prasad, Ajab Sadar, H. Gorai and Raj Dev Singh. This Munshi's report Exhibit M. 21 was proved by M.W. 2, the writer of the report who had prepared it.

(d) On 13/14th July 1962, three charge sheets were issued to the three workmen concerned. Exhibit M. 5 is the charge sheet against Bhairo Mandal; Exhibit M. 7 is the charge sheet against Upendra Mandal and Exhibit M. 9 is the charge sheet against Basdev Pasman. To these charge sheets the three workmen submitted their replies on 19th July 1962 which were to the same effect denying the charge. They said that it was strange that G. C. Roy, Mining Sirdar of 'C' Shift, did not tell the three miners concerned on 10th July 1962, which has been wrongly typed as 10th June 1962, while he inspected the place where they were working. Reply of B. Mondal is Exhibit M. 6, that of Upendra Mandal Exhibit M. 8 and of Basdev Pasman Exhibit M. 10. It may be mentioned that on the complaint of G. C. Roy Exhibit M. 12 the Manager asked the Welfare Officer to issue charge sheet to the three workmen concerned on 12th July 1962, and, accordingly, the charge sheets mentioned above were issued.

(e) On 19th July 1962, the Welfare Officer M.W. 1 issued a notice Exhibit M to the three workmen concerned informing them that enquiry into the above charge sheets issued to them will be held on 24th July 1962 by him in his office. A copy of this notice was also sent to G. C. Roy, Mining Sirdar, Prasadi Ram and Haru Gorai, Miners, to be present at the time of the enquiry.

(f) The Welfare Officer, M.W. 1 held the enquiry on 24th July 1962, and examined G. C. Roy, Mining Sirdar, whose statement is Exhibit M. 14, Prasadi Ram whose statements are Exhibits M. 11 and M. 15, the three workmen concerned, whose statements are Exhibit M. 16 and a defence witness Saligram Singh, whose statement is Exhibit M. 17. Cross-examination of G. C. Roy and Prasadi Ram was declined by the workmen concerned. Cross-examination of the accused by G. C. Roy and of defence witness Saligram Singh were also declined.

(g) On 24th July 1962, Enquiry Officer M.W. 1 submitted his report Exhibit M. 13 to the Manager of the Colliery in which he reiterated that the charge of robbing coal at 23½ East Level by the three workmen concerned had been established on the evidence of the witnesses examined on behalf of the management.

(h) On 26th July 1962, the Manager sent a letter Exhibit M. 4 to the Assistant Chief Mining Engineer saying that one of the accused (B. Mondal) was found running away with pick by the Mining Sirdar, and the miners have not contradicted this statement of the Mining Sirdar. He further mentioned that the Mining Sirdar said that they were robbing pillar at the site 25' to 30' behind the face, whereas other witnesses found the accused loading coal from a site 10' to 15' behind the proper working face and therefore it is reasonable to conclude that the coal was cut from the side of the pillar at any site between 10' to 30' behind the face. This cannot, therefore, be anything but robbing of pillar, and, therefore, he recommended that all the three accused may be discharged from company's service.

(i) On 6th August 1962, after consideration of the charge sheets and the replies thereto and the evidence before the Enquiry Officer, the Assistant Chief Mining Engineer sent a letter to each of the three workmen concerned informing them that the management was satisfied that they were guilty of the charge brought against them of robbing of pillar, and therefore, they are hereby dismissed from the company's service from 9th August 1962. The letter of dismissal was issued on 6th August 1962. Exhibit M. 1 is the letter of dismissal to Bhairoo Mondal; Exhibit M. 2 to Basdev Pasman; and Exhibit W-10 M. 3 to Upendra Mondal.

(j) The Union, thereafter, took up the matter of the dismissal of the three workmen concerned and wrote a letter on 18th September 1962 Exhibit W. 7 to the Conciliation Officer requesting him to take up the matter for conciliation. The Conciliation Officer, thereafter on 21st October 1962 filed his Failure Report Exhibit W. 8 to the Chief Labour Commissioner, New Delhi and then the matter was referred to this Tribunal for adjudication on 27th November 1962.

8 Sri P. Chanda, who appeared for the workmen concerned, urged several grounds in support of his contention that the departmental enquiry was illegal, bad and unfair and irregular, and that the workmen were dismissed by way of victimisation. In my opinion it is not necessary to deal with them because of the view I am taking of the departmental enquiry on one ground as mentioned below.

9 The Welfare Officer, M.W. 1, who held the enquiry and reported that the three workmen concerned should be held guilty of robbing brought against them, observed in his report Exhibit M. 13 as follows:

"From the evidence on record I am inclined to feel that the accused have failed to prove their innocence with regard to the charge brought against them,..... The statement of Sri Prasadi Ram also points to this guilt. Sri Hari Gorai's statement could not be taken as he was on leave."

10. From the above, it is plain that the Enquiry Officer took the view that the onus to prove their innocence was on the workmen concerned. This is obviously a basic error of law which vitiates his finding and the enquiry. It should be borne in mind that in all such cases onus is on the prosecution, namely, the management to prove, by such evidence as it likes, the guilt of the accused and there is no onus whatsoever on the workmen to prove their innocence unless the workmen admit their guilt and plead alibi or the like. In this view of the matter, in my opinion, the enquiry is vitiated and the finding of the enquiry officer is also vitiated as being illegal and improper. The Enquiry Officer should have considered the evidence adduced by the management, first to find out if the misconduct alleged by the management had been proved. Only thereafter, he could consider the evidence of the defence witnesses to see if the prosecution evidence had been displaced. On this ground alone, therefore, the enquiry must be held to be illegal, unfair, and unjust and the dismissal of these workmen concerned must be set aside.

11. I find from the Conciliation Officer's Confidential Report, Exhibit W. 18, that, in the above connection, he made very pertinent observations, with which I am in full agreement.

After consideration of the enquiry report, Exhibit M. 13, and the statements of Prasadi Ram, Exhibit M. 11, and Exhibit M. 1 and the statement of G. C. Roy,

the complainant, Exhibit M. 14 before the Enquiry Officer and the statement of defence witness, Saligram Singh, Exhibit M. 17, the Conciliation Officer observed:

"It will be seen from the findings of the Enquiry Officer that he has placed the onus of proof on the accused which is wrong in principle. Since it is for the prosecution to prove its case. I feel the Enquiry Officer has seriously erred in holding the accused responsible for not proving their innocence. Further, the Enquiry Officer has stated that the statement of Shri Prasadi Ram also points to the guilt of the accused, which in my opinion, is not correct as the statement given by Shri Prasadi Ram does not corroborate the statement of Shri Gorachand Roy in as much as Shri Prasadi Ram has not stated anything about robbing of coal. Further, there is material difference with regard to the place of alleged occurrence between the two statements. Shri Gorachand Roy has stated that the robbing of coal took place at a distance of about 25' to 30' from the working face, whereas, Shri Prasadi Ram in his statement has pointed out that the incident of picking of coal and not of robbing coal took place at a distance of about 10' to 15' from the face. On the contrary the statement given by Shri Prasadi Ram corroborates the statement given by Shri Saligram Singh, a witness of the defence. Both the statements reveal that the accused were found picking up coal from a distance of about 10 feet from the face. So it is not understood why the Enquiry Officer has not applied his mind to the facts stated above. It seems that he has based his conclusion under undue influence of the management and I do not hesitate to call his findings as perverse."

12. In my opinion, the learned Conciliation Officer has taken a correct view of the law and has made a correct appraisal of the evidence of the prosecution witness, Prasadi Ram and G. C. Roy and defence witness Saligram Singh. He has rightly observed that the statement of Prasadi Ram corroborates the statement of Saligram Singh, the witness for the defence. As both the statements reveal that the accused were found picking up coal from the distance of 10 feet to 15 feet from the face, he is right in observing that the learned Enquiry Officer did not apply his mind to these facts and, therefore, it is obvious that his finding is perverse as it is not supported by the evidence on record at all. It is not a case in which the finding of the Enquiry Officer is supported by some evidence in which case it could not be a perverse, but it is not supported by any evidence at all and on the contrary the defence version is proved. I may, in this connection, reproduce below the statement of the above witnesses:

(a) G. C. Roy stated (Exhibit No. 14) that:

"On 10th July 1962, I was in 'C' Shift duty. At about 12-30 A.M. when I went to 23½ East Level, I saw the three accused robbing coal from a pillar about 25 to 30 feet away from their working face. When Shri Bhairu Mandal saw me, he started running away with his pick. The other two were picking up the coal. I called Hari Goral and Prasadi and showed them that the robbing had taken place."

(b) Prasadi Ram stated in his statement Exhibit M. 15 that:

"On 10th July 1962 I was working in 'B' shift as a miner. At about 12-30 Shri Gorachand Roy called me and showed me that about 10 to 15 feet away from the face Shri Unendra Mandal and Sri Basdev Pasman were picking up coal and Sri Bhairu Mandal was standing near the face."

(c) Saligram Singh, defence witness, stated in his statement Exhibit M. 17, as below:

"On 10th July 1962 I was working on the W. Level of the same face where the three accused were working. I saw them picking up coal from about 10 feet away from the face. The face itself is about 10 feet wide."

(d) Hari Goral, who could not be examined before the Enquiry Officer, as he was on leave, was examined as M.W. 3 before this Tribunal. He stated:

"While we were loading our tubs allotted 'C' Shift Sirdar Sri Ghora Chand Roy went to my working face and told to go along with him and witness the robbing of coal by some miners. I accompanied him. When I proceeded with him about 50 feet below my working face, we saw some coal lying on the ground. B. Mandal was standing approximately 10 feet away from the coal with a pick in his hand. Sri Unendra

*Mondal was carrying the coal while Basudeo Pasman was loading into baskets. Mining Sirdar Gora Chand Roy asked the three miners named above as to why they had robbed coal, to which the miners replied that that was fallen coal which they had been loading. They denied of having cut that coal."*

From the above statements, it is clear that robbing of the coal had not been established at all.

13. Now there is another circumstance which also supports my conclusion that the robbing of coal had not been proved. These circumstances have been mentioned also by the Conciliation Officer in para 7 of his report Exhibit W. 18, which may be usefully reproduced here:

"I have also examined the above case in the light of the duties and responsibilities of the Mining Sirdar as provided in the Coal Mines Regulation 1957. Regulation 44(2)(c) provides that if a Mining Sirdar finds any person in a place other than the one assigned to him, he may order such person out of the mine. In the instant case this power has not been exercised by the Mining Sirdar and no cogent reason has been given by the management for not exercising this power by the Mining Sirdar. I feel if the Mining Sirdar had exercised this power, it could have served a good circumstantial evidence in favour of the management. Further, Regulation 113(d) provides that the Sirdar shall at the completion of his shift record without delay the result of his inspections in a bound book kept for the purpose and every such report shall be a full and accurate report of the inspections. On perusal of the inspection book of the Mining Sirdar (i.e. Exhibit W. 17) I found that no such incident of coal robbing was mentioned therein on the day of alleged occurrence. All these facts suggest that the story of coal robbing is an after thought and is connected one."

14. The report book Exhibit W. 17 kept under Clause 113(3)(d) of the Coal Mines Regulations, 1957 by Mining Sirdars show at page 8 that G. C. Roy worked from 11-30 P.M. to 1-30 A.M. and signed on 11th July 1962 at 9 A.M. But curiously enough no report about the alleged robbing of the coal by the workmen concerned is at all mentioned in Exhibit W. 17, as such reports are mentioned at page 66 regarding inspection which took place on 31st July 1962; at page 67 where robbing is mentioned by the Mining Sirdar D. P. Dullan. This omission by G. C. Roy in not mentioning about robbing in the report book Exhibit W. 17 immediately after the occurrence and before framing the complaint Exhibit M. 12 is a strong circumstance to show that the subsequent complaint on 11th July 1962 Exhibit M. 12 is an afterthought. If Mining Sirdar D. P. Dullan reported robbing at pages 66 and 67 in the report Exhibit M. 17, why did G. C. Roy not mention about robbing in this report book Exhibit W. 17? The answer is obvious that because he did not see actually any robbing. He connected this story later on.

15. The grievance of the workmen concerned that important documents, such as Mining Sirdar's report book Exhibit W. 17, was not filed before the Enquiry Officer, is certainly prejudicial to the workmen concerned. On this question, the evidence of the Welfare Officer, M.W. 1, is to the following effect:

"I did not ask for Mining Sirdar's bound paged book before the domestic enquiry, which is kept by the company under the relevant Statute. I did not examine the Manager of the Colliery. I did not ask the Manager to produce any report book maintained for the reports of the underground. But I have asked for Munshi's report. That Munshi's report was produced at the enquiry. I have not mentioned anywhere in my enquiry report about the production of Munshi's report. I have not voluntarily offered any opportunities to these workmen to inspect the Munshi's report at the enquiry."

16. The Munshi's report, Exhibit M. 12 has been produced before this Tribunal. The above statement of the Enquiry Officer M.W. 1 proves that the enquiry was not at all fair in as much as important witnesses and documents were not examined by the management and the workmen were not given an opportunity to see documents which were before him.

17. For the reasons given above, I hold that the enquiry was unfair, illegal and irregular and violative of principles of natural justice and further that the finding of the Enquiry Officer is perverse, as mentioned above.



18. I, therefore, answer the reference in favour of the workmen concerned by holding that the dismissal of Sarvashree Basdev Pasman, Bhairu Mondal, and Upendra Mondal, Miners, by the management of Jamadoba 6 and 7 Pits Colliery owned by Tata Iron and Steel Co. Ltd., was unjustified, and, therefore, their dismissals are set aside and they are entitled to be reinstated to their original posts with full back wages from the date of their dismissal to the date of their reinstatement. I make the award accordingly.

19. The management must implement this award within one month from the date when the award becomes operative after its publication under Section 17 of the Act.

20. The parties shall bear their own costs of this proceeding.

21. This is the award which I make and submit to the Government of India under Section 15 of the Act.

(Sd.) RAJ KISHORE PRASAD,

Presiding Officer.

[No. F.2/112/62-LR.II]

**S.O. 2773.**—In pursuance of section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the following award of the Industrial Tribunal, Calcutta, in the industrial dispute between the employers in relation to the Ramnagar Colliery, Post Office Kulti, District Burdwan and their workmen, which was received by the Central Government on the 16th September, 1963.

### BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL, CALCUTTA

REFERENCE NO. 46 OF 1962

#### PARTIES:

Employers in relation to the Ramnagar Colliery, Post Office Kulti, District Burdwan,

AND

Their workmen.

#### PRESENT:

Shri L. P. Dave—*Presiding Officer.*

#### APPEARANCES:

*On behalf of Employers*—Shri Bibhuti Bhushan Ghose, Advocate

*On behalf of workmen*—Shri D. L. Sen Gupta, Advocate,

Shri Kalyan Roy, Vice-President,

Colliery Mazdoor Sabha.

STATE: West Bengal.

INDUSTRY: Coal Mines.

### AWARD

The Government of India, Ministry of Labour and Employment, by their order No. 2/75/62-LR.II, dated 22nd November 1962, have referred the industrial dispute existing between the employers in relation to the Ramnagar Colliery and their workmen in respect of the question whether the management of the said colliery was justified in dismissing Shri Raju Singh, Trammer, from service with effect from 24th May 1962 and if not, to what relief he is entitled, for adjudication to this Tribunal.

2. The workmen filed a written statement contending *inter alia* that Raju Singh had been working as an underground trammer for a long time; the trammers were under the partial supervision of a contractor named R. K. Dubey who acted as an agent of the company *vis-a-vis* the trammers; the management exercised supervision and control over the trammers; the management were in full charge of the trammers, for the recruitment and dismissal and Dubey had to carry out the orders of the management regarding these trammers who are responsible to the company; the workmen further contended that excepting the mode of payment in all other terms there was no difference between these trammers and rest of the workers; that being exhausted with the functioning

of the recognised union and because of various other reasons the trammers and others took steps to organise a branch of the Colliery Mazdoor Sabha in the colliery towards the end of April 1962; the workmen in general and the newly elected leaders agitated for the complete stoppage of money lending activities of Chuni Lal Dhawan, an overman of the company who was a very powerful man in the colliery; Raju Singh took a bold step in organising the new Union and was appointed General Secretary thereof; he represented various grievances of the trammers before the Manager and incurred displeasure of the Manager, of Shri Dubey and of Shri Dhawan and a conspiracy was hatched to dismiss him. On 7th May 1962 a chargesheet was issued to him for his alleged attempt to assault Dhawan and he was also suspended; he replied to the chargesheet denying the allegations as baseless and gave a statement as to what had happened and mentioned that he had been assaulted underground and attempts had been made to evict him; he also drew the attention of the authorities to his unfortunate position and sought protection even before the chargesheet was issued; the manager even before the receipt of his reply and before any enquiry was held decided that he was guilty without giving him any reasonable notice and time; then he made an enquiry with himself as Chairman; request for postponement was turned down and he was badly treated at the enquiry; statements were neither recorded properly nor translated nor was he given any opportunity to cross examine the witnesses; he was summarily dismissed by the Manager by a letter of 24th May; the dismissal of Raju Singh was a planned affair motivated by extraneous reasons and factors; it was *malafide*, illegal and amounted to unfair labour practice; principles of natural justice had also been flagrantly violated at every step. It was therefore prayed that Raju Singh should be reinstated in his former job with all back wages.

3. By their written statement, the management contended that there was no dispute between the company and their workmen as there was no employer and employee relationship between them and hence this Tribunal had no jurisdiction to adjudicate upon this dispute which was an individual dispute and not an industrial dispute. It was further contended that all surface and underground trammers including Raju Singh were under the direct employment of tramming contractor R. K. Dubey; they were recruited by him and he paid them their wages; the company exercises control over them in so far as the Standing Orders in force at the colliery were concerned and in so far as the obligations enjoined by the Mines Act, Mines Rules and the Coal Mines Regulations were concerned; the company had no knowledge of the formation or existence of a branch of the Colliery Mazdoor Sabha at Ramnagar colliery; the company denies the allegations made against Dubey and Chuni Lal Dhawan; the company was not aware that Raju Singh had been appointed Joint Secretary of the alleged local branch of the Sabha; the Company denies that he ever approached it for representing grievances of the trammers and it also denies that any conspiracy was hatched to dismiss Raju Singh; a chargesheet was issued against Raju Singh for assaulting C. L. Dhawan a senior overman while on duty and for violent, riotous and indecent behaviour and he was suspended pending the enquiry; he replied to the chargesheet; it is denied that Raju Singh ever drew the attention of the authorities to his alleged unfortunate position or that he ever sought for any protection whatsoever; the company also denied other allegations made in the workmen's written statement; it denied that Raju Singh was badly treated in the enquiry. It further stated that the facts were in the afternoon of 5th May 1962 the manager received a complaint that Raju Singh had abused and threatened some miners and on C. L. Dhawan's objecting to such behaviour he had snatched away the stick from Dhawan and attempted to assault him; the manager immediately visited the spot and was *prima facie* satisfied that Raju Singh did behave in the way complained of; a chargesheet was accordingly issued to him on the 7th May; he replied to it on the 8th May; his explanation was found to be unsatisfactory; a notice was issued to him on the 9th May asking him to attend with his witnesses a departmental enquiry to be held on 10th May; the enquiry was conducted by a Board composed of the Manager and three other persons in the presence of Raju Singh; at that enquiry witnesses gave evidence against Raju Singh in his presence; he was asked to cross examine them and to produce his witnesses; he cross examined some of them and asked for a week's time to produce his witnesses; he however refused to put his signature and thumb marks on the statements recorded in his presence; a week's time was granted to him to produce his witnesses; on the 17th May he produced two witnesses both of whom were examined; they put their thumb marks on their statements and thereupon Raju Singh also volunteered to put his thumb marks on the statements recorded on 10th May and he was allowed to do so; the Board of Enquiry found Raju Singh guilty of the charges levelled against him and recommended his dismissal; the Manager after consideration accepted the recommendations and decided to dismiss him; after obtaining the approval of the Superintendent of

Collieries Raju Singh was dismissed from service with effect from 24th May; the punishment of dismissal was the just verdict of a properly constituted Board of Enquiry and did not amount to unfair labour practice or victimisation.

4. The present dispute relates to the dismissal of a trammer named Raju Singh, who was working in the Ramnagar Colliery, which is owned by Indian Iron & Steel Co. Ltd., hereafter referred to as the company. It appears that in this colliery the tramping work was done through a contractor named R. K. Dubey till 1st October 1962. The contention of the employers is that Raju Singh was an employee of this contractor (Dubey) and not of the company; that there was no master and servant relationship between the company and Raju Singh and hence there could be no industrial dispute so far as the company is concerned regarding Raju Singh's dismissal. The second point that is urged by the company is that this is an individual dispute regarding the dismissal of an individual workman and not an industrial dispute. On merits it is urged that Raju Singh was dismissed as a result of finding of a departmental enquiry that he was guilty of assault and riotous behaviour underground. The Union's case is that Raju Singh is in fact an employee of the company and the contractor is only a partial supervisor over him. The Union further contended that though the dispute is regarding dismissal of Raju Singh, it was taken up by the workmen of the colliery and by the Union and hence it is an industrial dispute. The Union then urged that the enquiry was not proper; that principles of natural justice were violated; that witnesses were not examined in the presence of Raju Singh and that he was not allowed to cross examine them and the finding of the enquiry is therefore biased. It was also urged that the dismissal was not *bonafide* and was actuated by improper motives and was a result of his trade union activities. The company denied these allegations and urged that there was a proper enquiry. It further urged that there was no victimisation or violation of principles of natural justice and further that even if the enquiry was vitiated on merits, the findings recorded should be upheld on merits.

5. The first question for consideration therefore would be whether the workman Raju Singh was an employee of the company or whether he was an employee of the contractor and whether there was a relationship of master and servant between the company and Raju Singh. In this connection, the company's case is that the work of tramping was entrusted by them to a contractor R. K. Dubey who had to employ necessary trammers for doing the work. In a coal mine, miners cut coal and load it in tubs. The tubs are then taken from the working place on tramlines to the surface of the mine. This work is done by workmen who are known as trammers; they have also to bring back empty tubs to the working place, so that miners can load coal cut by them in these tubs. It is an admitted fact that the work of cutting coal and loading it in tubs is done by workers who are employed by the company itself. It is however urged that the trammers' work had been entrusted to a tramping contractor named R. K. Dubey. The company's case is that R. K. Dubey was to be given a fixed rate per tub by the company and he had to engage trammers and pay their wages out of this fixed amount that was so paid to him. It was therefore contended that the trammers were the employees of the contractor and not of the company and the company had nothing to do with them. It was also urged that their work was supervised by the contractor and not by the officials of the company.

6. In this connection, the company place reliance on the evidence of the contractor R. K. Dubey and on a writing, Exhibit E-7, dated 20th November, 1943, which mentions the terms of employment of the contractor. This letter mentions that on and from 12th November, 1943, the rate of the contract for tramping all class of coal from the pits and inclines of Ramnagar Colliery would be one anna nine pies per tub plus 10 per cent. as extra food cost allowance; the contractor was required to provide at all times sufficient labour such as surface and underground trammers, hookmen and pointsmen etc. to raise the requisite number of tubs from the pits and inclines and all labour was to be paid the standard wages for this class of work prevailing in the district; Banksmen and Onsetters were to be provided by the company; the management reserved their right to engage extra labour if the contractor's labour supply was inadequate and such labour would have to be paid by the contractor; a month's notice would terminate this contract. This letter bears an endorsement of the contractor that he accepted the conditions stated in this letter. It was urged on behalf of the company that this letter showed that all trammers were to be engaged by the contractor who had to pay them and therefore all trammers were his employees and not the employees of the company.

7. There is a distinction between contract for service and contract of service. A contractor may agree to carry out certain specified work but it would not necessarily mean that it was a contract of service. On the other hand, there may

be cases where the contract may be a contract of service where the contractor may himself be a servant of the employer and may also engage people to serve him in the work. For instance, formerly in Banks, work of the cash department used to be entrusted to contractors who used to be called "contractor treasurers". The Cash department was in charge of this treasurer who had to appoint cashiers and other staff for that department. In a case between Punjab National Bank and their workmen (1955) 1 L.L.J. 688, the Supreme Court, on an interpretation of the contract between the Bank and its contract-treasurers, held that the relation of the treasurers and the bank was that of a servant to a master and so also the cashiers appointed by the treasurers were also the employees of the bank. As was observed in that case, the question as to whose employee a particular person is has to be determined with reference to the facts and circumstances of each individual case. Many factors have a bearing on the result. Who is paymaster, who can dismiss, how long the alternative service lasts, what machinery is employed, have all to be kept in mind. Similarly, an important question to ask would be as to who is entitled to tell the employee the way in which he has to work upon which he is engaged. In other words, each case has to be decided on its own facts and the decisions in other cases would not be of much use.

8. It was urged that to decide this point all that this Tribunal has got to do is to interpret the terms of the above document, exhibit E-7. I do not agree with this contention. From the evidence of the contractor, it appears that he has been working as a contractor from 1938. He has said that he entered into a written contract in 1938; that at that time, two copies (of the contract) were made and both were signed both by him and by the Manager of the Colliery and one remained with him and the other with the company. He did not remember as to what were rates agreed in 1938. The rates were changed from time to time. At one stage, he said that the rates agreed to in 1938 continued in force till 1958, when a fresh letter was written about new rates. At another stage, he said that the rates which were agreed to in 1938 continued to be in force till 1946 when they were increased by 40 per cent. and this increased rate continued to be in force till 1958 when they were again increased to as. -/3/9 pies per tub plus 12 percent, plus 150 per cent. dearness allowance. He later on admitted that the increase which he had referred to as having taken place in 1946 really took place in 1947 and that it was an increase as a result of Conciliation Board award. He also admitted that the wages of trammers were increased by 40 per cent. by the C. B. award and it was thereupon that his rates were increased. He then admitted that his rates were not increased by 40 per cent. but it was only agreed that the additional amount which he would have to pay to the trammers as a result of 40 per cent. increase in the trammers' wages was to be paid to him by the company. He then said that all this was oral and there was nothing in writing as to what was the agreement between him and the company about it.

9. From the above deposition of the contractor, it would be apparent that exhibit E-7 is not the agreement which was in force between the company and the contractor at the relevant date. According to the contractor, the above document was the contract of 1938 whereas it appears to be one which was passed in 1943. According to the contractor, the rates fixed in 1938 continued to be in force till 1947. If so, I do not understand why there was a fresh writing like exhibit E-7 in 1943. The writing shows that it was not the first agreement between the contractor and the company but was probably a modification of an earlier one. That would mean that there must have been an agreement of 1938 which has not been produced. There must have been another agreement in 1947 and at least one more in 1958. But none of them is produced. I am not prepared to believe the contractor when he says that the changes in the rates were made orally and there was no writing about it. For reasons best known to the company, none of the documents has been produced before the Tribunal. Not only has no agreement been produced but no accounts or papers of any sort have been produced to show as to what really was the agreement regarding payment between the company and the contractor.

10. The above writing would go to show that the liability to pay everything to the trammers would be that of the contractor. Admittedly, however, several other payments are now being made to the trammers by the company. Not only are they supplied with quarters by the company but they are also paid sick khoraqi, wages while on leave, train fare while going on leave and bonus. None of these payments would be the responsibility of the company if the agreement was as is mentioned in exhibit E-7. This means that this agreement must have been modified from time to time, and the company must have agreed to make certain payments to the trammers. In the absence of the subsequent agreement, which would be the agreement in force at the time when the present dispute arose, one

cannot interpret an earlier document like exhibit E-7 and hold therefrom that the trammers were the employees of the contractor and that the company had nothing to do with them.

11. In this connection, I may also refer to the further evidence of the contractor on this point. The contractor says that he was maintaining an attendance register and payment sheets of the trammers but he has not got them now and he could not produce them. His contract was abolished from 1st October, 1962, that is, less than a year ago. It is difficult to believe that he has not got these documents with him now; but he wants the Tribunal to believe that he has not got these documents. I do not believe him. I think that he does not want to produce them and the obvious inference from this would be that they would not support his present allegation.

12. The company has also not produced any of its registers or account books which could have shown as to what payments it was making and what was its liability. It could have produced the attendance registers or the payment registers which would have shown whether the trammers were being paid by the contractor or were being paid by the company and whether they were being paid as the employees of the company or as the employees of the contractor.

13. The contractor had got about 70 to 100 people working under him at the time. If these people were really his employees, he would have required a clerk to prepare their pay sheets etc. but admittedly he had no clerk; he had no office; he had no typists; whenever he was required to get anything done, it was being done by the colliery office. His letters were drafted for him by the Labour Officer of the colliery. All this would go to show that he was an employee of the company and a sort of supervisor over the trammers for which he was being paid remuneration. The trammers may be being paid through him but the liability was of the company. Whenever wages were increased (as a result either of the C. B. award or of the award of all India Colliery Disputes Tribunal), the wages of these trammers were increased and the so called rate of the contractor was also increased.

14. The trammers are governed by the Standing Orders of the Company. By itself, this may not be conclusive; but it would be one of the factors which, considered along with others, would go to show that the company was the master and the trammers were the company's employees. When the company framed the rule of superannuation, that rule was made applicable to the trammers also. When the company agreed to any gratuity that rule was also made applicable to the trammers. If a trammer wanted to take leave, it had to be sanctioned by the Manager. When disciplinary action had to be taken against a trammer, it was the manager who decided it. The manager held the enquiry. The manager found him guilty. The manager obtained the approval of his higher officers and the manager dismissed him. The contractor came nowhere in the picture. If the contractor was the real employer, at least the chargesheet should have been served through him. The enquiry should also have been held in his presence; the decision to dismiss him would have been made by him or at any rate, he should have asked to dismiss him. In any case, there would have been no necessity to obtain the sanction of the superior officer. If the manager felt that to discharge of his duties in the Mines Act, he had to take action against trammers and if he held that a particular trammer must be dismissed, he could have straightway directed the contractor to dismiss the trammer. Unless the trammer was an employee of the company, there was no reason for the manager to report the case to his higher officer or to obtain approval from them.

15. It may also be noted that after the present incidents took place, Raju Singh sent letters to company's officers at Burnpur and at Calcutta ventilating his grievances. But he did not even try to see the contractor. If the contractor was really his master, one would have expected Raju Singh to have approached him and not to have approached the company's officers at Burnpur and Calcutta. This also goes to show that Raju Singh was an employee of the company and not of the contractor.

16. It was said that the entire work of the trammers had to be supervised by the contractor and that the company officers had nothing to do with it. It may be noted that the work of tramming is interconnected with the work of cutting coal. If the coal cutters and the trammers do not act in unison, the work would naturally suffer. The contractor cannot therefore work independently without the instructions of the management. The contractor would have to take instructions from the Management as to where the Trammers had to work, because it is the manager who decides the working place and the trammers would have to supply tubs at those working places. This would mean that the contractor was not an independent contractor who worked independently but he had to take directions from the management. His trammers would have to take directions from the management and their work also would have to be supervised by the company's

officers. It was said that the contractor alone was the supervisor of the work of the trammers but this does not appear to be probable. The contractor had no licence or authority under the Mines Act and or the Mines Rules or Regulations and he could not be expected to look after the technical side of the work. It was admitted by company's witness Sukar Turi that the work of trammers was also supervised by the company's officers.

17. The manager had once changed the shift hours of the trammers alone. No doubt subsequently he cancelled this order but the fact remained that he had passed the order changing shift hours of the trammers which would go to show that the trammers were the employees of the company and not of the contractor.

18. Reliance was placed on behalf of the company on the notices, exhibit E-8, which is said to have been given by the contractor in 1960 when he wanted to retrench 22 people. This notice exhibit E-8 appears to have been signed by the contractor as employer. But if we read the deposition of the contractor on this point, it would appear that he had practically no knowledge about this and everything was done by the Welfare Officer of the colliery, who drafted this notice and the contractor appears to have merely signed it. I feel that the contractor was a sort of dummy, who was used by the management for their own purpose but the trammers were in reality the employees of the company and it was only to make a show of the contractor being the employer that a notice of this type was published on the board.

19. From the statements of different workers said to have been recorded at the enquiry against Raju Singh, it would appear that when Raju Singh demanded that his dues should be paid up to him, he was asked to see the Manager of the colliery. This would also go to show that the management was the real employer of the trammers.

20. On the whole, after considering all the facts and circumstances of the case, I have no doubt in my mind that Raju Singh was an employee of the company and that there was master and servant relationship between the company and himself.

21. This brings me to the second contention of the company and it is that this was an individual dispute and not an industrial dispute. It is now settled law that an individual dispute could be taken up by a body of workers and/or by a workers' Union and thereby it would be transformed into an industrial dispute. What is necessary is that the dispute should be taken up by large number of workmen of the particular establishment. What will have to be considered is whether the employer is fighting a dispute with an individual or with a large number of his workmen. If a workman is represented by a Union of the workmen, the presumption would be that the Union represented the views of the majority of the workmen or a large portion thereof and if the employer challenges this, it would be for him to prove it.

22. In the present case, no doubt the dispute relates to an individual named Raju Singh. It is however the case of the workmen that the case of Raju Singh was taken up by a large number of workmen and by the Colliery Mazdoor Sabha and it is therefore an industrial dispute. In this connection, we have the evidence of Raju Singh himself who has said that a branch of the Colliery Mazdoor Sabha was started in the colliery in April, 1962. He has further said that about 250 members of the colliery joined that union. He has then said that within a day or two of his dismissal, a meeting of the workmen was held which meeting was attended by about 500 workmen of the colliery and a resolution was passed at that meeting that he was wrongfully dismissed and the workmen should fight out his case. As against this evidence, the only evidence led by the company is the evidence of the Labour Welfare Officer who has said that they came to know about colliery Mazdoor Sabha having started working in the colliery only when they received a copy of their letter sent to the Conciliation Officer regarding Raju Singh. He has admitted that on the complaint of the Colliery Mazdoor Sabha, the Conciliation Officer had held several enquiries but this was all after the dismissal of Raju Singh. It may be noted that the workman's case is that a branch of the Colliery Mazdoor Sabha was started towards the end of April, 1962. The present incidents took place on 5th May and Raju Singh was dismissed on the 24th May. It appears from the letter Exhibits E-5 and E-6 produced by the company that the Colliery Mazdoor Sabha had taken up the case of Raju Singh's dismissal on the 6th of June. This conclusively shows that the Colliery Mazdoor Sabha was actively operating in this colliery before the 6th of June. We have then the evidence of the company's own witness Sukar Turi to the effect that some time before the present incidents took place, Raju Singh had told him that Red Flag union had been formed and that he was the Secretary thereof and he asked him to join that

union. This supports the workmen's case that a branch of the Colliery Mazdoor Sabha was formed in the colliery towards the end of April, 1962. That union has taken up the case of the workman. This would *prima facie* go to show that Raju Singh's case has been sponsored by a large number of workmen. Again, as I mentioned above, there is evidence of Raju Singh about a meeting attended by 500 workmen of the colliery which took up his case and there is nothing to contradict this evidence. I am therefore satisfied that the present dispute is not an individual dispute but is an industrial dispute.

23. Coming to the merits of the case, Raju Singh is said to have been dismissed as a result of a departmental enquiry held against him. It is alleged that on the 5th of May he threatened a workman named Sukar Turi while working underground and that when the Senior overman Chuni Lal Dhawan said that he should not do so, he (that is, Raju Singh) snatched away the stick from Chuni Lal's hand and assaulted him with it; fortunately the stick did not strike Chuni Lal because it struck against a cable; a chargesheet was served on Raju Singh on the 7th to which he replied on the 8th; an enquiry was held on the 10th and 17th and as a result of the findings of the enquiry he was dismissed on the 24th.

24. The law on the question as to the powers of a Tribunal when a person is dismissed as a result of a finding of a departmental enquiry is now well settled by a series of decisions of the Supreme Court. If the enquiry has been properly held and if there has been no violation of principles of natural justice, the Tribunal cannot go into the merits of the case. It is not sitting in appeal against the finding of the Enquiry Officer and cannot consider whether evidence produced at the enquiry was sufficient or not nor can it consider whether it was reliable or not. The Tribunal could however interfere if it finds that the enquiry was not properly held or if it finds that the dismissal was not *bonafide* or was a case of victimisation or unfair labour practice. It is also settled law that if an enquiry is not properly held and if as a result, the findings of the enquiry are held not binding on the Tribunal, it is open to the employers to lead evidence before the Tribunal to satisfy it that the charge against the workman should be held proved. In such a case, the Tribunal would examine the evidence produced before it and see whether the charge should be held proved or not.

25. In the present case, Raju Singh is said to have been dismissed as a result of a departmental enquiry. The workmen allege that the departmental enquiry was not held properly; that witnesses were not examined in Raju Singh's presence; nor was he given an opportunity to cross examine them; that the manager had already made up his mind against Raju Singh and that the enquiry was not *bonafide* or proper nor was his dismissal. It was also said that Raju Singh had incurred the displeasure of the management because of his active part in forming the new union of which he was appointed Secretary and because he complained to the management against the money lending activities of Chuni Lal Dhawan and also wanted the contract system to be abolished.

26. In support of their case that the enquiry was properly held, the management have examined the Labour Welfare Officer who was one of the members of the Board of Enquiry. According to the management, the enquiry was held not by the manager alone but by a committee consisting of four persons with the Manager as Chairman and with the Labour Welfare Officer, the Asstt. Labour Welfare Officer and the Medical Officer as members. I may say at the outset that the appointment of a so called committee was only a farce. The manager was the real person who was holding the enquiry and the three other members of the committee were his subordinates who would not have and had not the courage to tell anything to him, even if they felt that he was doing something which was not correct. For instance, it appears that when the enquiry was started, the manager said that the committee would first enquire into the allegations made by Raju Singh against Chuni Lal about Chuni Lal's having gone to Raju Singh's quarters in the evening of the 5th to assault him. With this end in view, the committee proceeded to Raju Singh's quarters and questioned neighbours and then asked Raju Singh to produce witnesses and he said he could not do so. It is also said that when the Committee went to Raju Singh's quarters to make this enquiry, Chuni Lal was not allowed to remain present, because it was thought that people would be afraid of making statements against him in his presence. It may be remembered that the committee was constituted to make an enquiry into the chargesheet issued to Raju Singh which chargesheet was to the effect that Raju Singh had threatened Sukar Turi and had tried to assault Chuni Lal Dhawan. The Committee was not constituted to hold an inquiry into Raju Singh's allegations against Chuni Lal. It is true that in his reply to the chargesheet Raju Singh had said that Chuni Lal had gone with some persons to his house in the evening of the 5th to assault him. This allegation may be taken at best to be a sort of

defence of Raju Singh, even then, the Committee was not asked to make an enquiry into that at that stage. It may be that incidentally the committee may have to consider that aspect. It however appears that the manager started to make an enquiry about this before starting the enquiry in the allegations against Raju Singh. No notice was given to anyone about the so called enquiry about the allegations made by Raju Singh against Chuni Lal; Raju Singh was asked immediately whether he had any witness and naturally he could not produce any. Again, the enquiry was sought to be made in the allegations made by Raju Singh against Chuni Lal and naturally Chuni Lal was the person vitally affected by it and still when that enquiry was to be made Chuni Lal was not allowed to attend. The Welfare Officer, when questioned on these points admitted that he knew no enquiry could be held without giving previous intimation to the parties about it and also that no enquiry could be held against a person in his absence. Still he had not the courage to tell the manager that what he was doing or what he was proposing to do was not proper. I am mentioning this only to show that Labour Welfare Officer who was a subordinate of the manager had not the courage to point out that the action of the manager was not proper. With members of this type on the committee, the committee was merely a farce, only to show that the enquiry was not held by the manager alone but by a committee.

27. I am mentioning these facts because I find that the manager appears to have been biased against Raju Singh. It may be that he was obsessed by the fact that Chuni Lal Dhawan was a Senior Mining Officer and must be protected at any cost. When he receives an oral complaint from Chuni Lal, he makes an immediate enquiry on the spot and issues a chargesheet against Raju Singh. But when Raju Singh in his reply makes serious allegations against Chuni Lal, the manager does not make any enquiry immediately nor does he issue a chargesheet to Chuni Lal. Further, when writing a letter to the Superintendent of collieries, Exhibit E-14 on 7th May 1962, the manager mentioned that violent behaviour on the part of the worker underground was liable to cause disaster and stern action has got to be taken against the accused in the interest of safety. With this letter was forwarded a copy of the chargesheet issued against Raju Singh. At this stage, even before Raju Singh's reply had been received, the manager had expressed an opinion that stern action should be taken against Raju Singh.

28. It may be noted that in this letter, the manager had also proposed that the departmental enquiry should be conducted by the Labour and Welfare Superintendent of the company at Burnpur as Chairman. There is nothing on record to show as to what happened to this proposal of the manager and as to why the Labour and Welfare Superintendent, Burnpur, was not appointed as Chairman of the Board of Enquiry and as to why the Board of enquiry was appointed with the Manager himself as Chairman. By this I do not mean to say that it was not open to the manager himself to make an enquiry nor do I mean to say that the manager could not have been the Chairman of the Board of enquiry, but what I am pointing out is that the above letter of the manager shows that he had already formed an opinion not only about the guilt of Raju Singh but also about the punishment that ought to be meted out to him.

29. The bias of the chairman could also be seen from the proceedings of the enquiry. As I mentioned above, the manager first held also called on the spot enquiry in the allegations made by Raju Singh against Chuni Lal and asked Raju Singh to produce evidence there and then though Raju Singh had no previous intimation that an enquiry was to be held in respect of his allegations against Chuni Lal. I further find that the record of the enquiry shows that after Sukar Turi was examined, Raju Singh was asked to cross examine him and what happened was that instead of Raju Singh's putting question to Sukar Turi, he (i.e. Raju Singh) made a sort of a statement. It is to be remembered, that Raju Singh is an illiterate trammer and could not understand the niceties of an enquiry or of cross examination, and hence instead of recording his statement, the committee should have put questions on his behalf to Raju Singh to ascertain the allegations that Raju Singh was then making. Not only was this not done but at that stage even before other witnesses were examined the manager who was the Chairman of the committee put certain questions to Raju Singh and recorded his statement. This also shows the manager's bias.

30. The manager's bias is further seen by the finding of the enquiry. It has first recorded that the charge that Raju Singh abused Sukar Turi and threatened him was sufficiently proved. It was then held that Raju Singh was proved guilty of the charges of fighting and disorderly behaviour. Then there is a finding that the allegation made by Raju Singh in his reply to the chargesheet that Chuni Lal



number of men to assault him had been enquired into and proved utterly false and baseless and Raju Singh deserved "drastic disciplinary action for bringing false allegations against a member of the Senior Supervisory staff". This shows as to what was going on in manager's mind and the mind of the so called committee.

31. It may be noted that the Manager has not been examined as a witness before the Tribunal. He would have been an important witness who could have thrown much light on many facts of the case. He could have said not only as to how the enquiry was held but his evidence would have been useful on the question of the contractor and trammers being employees of the company or not. Still he has not been examined.

32. There is one very serious thing in this enquiry and it is that a certain lacuna in the enquiry has been sought to be filled in later on by a subsequent interpolation. The papers of the enquiry are at exhibit E-3. After mentioning details regarding the so called spot enquiry regarding Raju Singh's allegations about Dhawan's having gone there in the afternoon of the 5th to assault him etc., the enquiry started with the statement of Chuni Lal Dhawan. His statement was completed at page 5 of the enquiry papers and signature of the manager and of Dhawan were taken below it. On the next page the statement of Sukar Turi was started. Raju Singh was not asked to cross examine Chuni Lal. This would vitiate the enquiry. Probably to obviate this, a sentence has been interpolated at the bottom of page 5 of the enquiry papers to the effect that "Raju Singh waived cross examination of Shri Chuni Lal Dhawan". This sentence appears after the signature of both the manager and of Dhawan and is in different ink which differed not only from the statement of Dhawan recorded before it but also of the statement of Sukar Turi recorded thereafter. The statement of both Dhawan and Sukar Turi are in the same ink and only the above sentence is in different ink. This is admitted by the Labour Welfare Officer. I have no doubt in my mind that he interpolated this sentence later on at the instance of the manager probably when it was found that the enquiry would be held bad on the ground that no opportunity had been given to Raju Singh to cross examine Dhawan.

33. This attempt on the part of the management or the Manager by itself is sufficient to prove the want of their *bonafides*. Apart from this, however, it does vitiate the enquiry in that it shows that no opportunity was given to Raju Singh to cross examine an important witness like Chuni Lal Dhawan. Further, in case of some of the witnesses, their statements were not recorded about the incidents but all that was recorded was that those witnesses corroborated the statement of an earlier witness in all their details. This could hardly be said to be a proper examination of witnesses or a proper opportunity to Raju Singh to cross examine them, specially when we remember that Raju Singh is an illiterate workman who would not have any knowledge of procedure or implications of the enquiry and/or of the statements.

34. Raju Singh has then alleged in his deposition that he was asked to go out when his defence witnesses were examined and that the statements of the defence witnesses were recorded in his absence. He has further said that he was asked to put his thumb marks on the different statements; that he declined to do so; that thereupon he was threatened by the manager and on this he put his thumb marks on the different statements on the 17th because of the threats.

35. So far as allegation of the defence witnesses being examined in the absence of Raju Singh is concerned, it was made for the first time by him in his examination before this Tribunal and therefore we may not attach much importance to that allegation. But so far as his other allegations are concerned (namely that his thumb marks were taken on the enquiry papers under threat), that allegation was made at a very early stage. It was made during Conciliation proceedings. In spite of this allegation having been made from the beginning, we find that not a single question has been put to the Welfare Officer about it. In other words, this allegation is not denied by the Welfare Officer. We also find that the manager has not been examined on the point. Thus the statement of Raju Singh is not contradicted and I would accept it as true especially as it was made from the earlier stage. This would also show that the enquiry was not properly held.

36. It was urged that there was no reason for the management to single out Raju Singh for action and that the allegation that he was victimised for his Trade Union activities is not true. Raju Singh has stated in his deposition that after the formation of the union he approached the manager and told him that Chuni Lal Dhawan was doing money lending business and that his money lending activities should be stopped. He has also stated that he requested the manager

to put an end to the contract system. It may be noted that the management did not put Chuni Lal Dhawan in the witness box to state whether he was doing money lending business or not. The manager would be the best person to have said as to whether any complaint was made to him about Chuni Lal Dhawan's money lending activities but he has not been examined. The Labour Welfare Officer says that he did not hear anything about Chuni Lal's money lending activities. But the cat came out of the bag when the management put Sukar Turi in the witness box. He admitted in his cross examination that in case of need, miners used to borrow money from Chuni Lal Dhawan who advanced them as a loan from his own pocket. It is significant to note that after this reply the witness volunteered that Chuni Lal was not charging any interest from the workmen. I have no doubt in my mind that Chuni Lal must have been doing money lending business and that he must have been charging high rate of interest or at any rate, he must have been using his position as Senior Overman to recover the monies lent by him etc. Naturally he would get offended if some complaint was made against him and if his money lending activities were sought to be curbed. I also feel that the manager for one reason or another was supporting Chuni Lal or at any rate did not like to take any action against him and it is therefore quite possible that the present incident was used to victimise Raju Singh because of what he had done as Secretary of the newly formed union.

37. On the whole, I am satisfied that the Manager was biased; that the enquiry was neither *bonafide* nor proper; that principles of natural justice were not followed; that no opportunity was given to Raju Singh to cross examine at least Chuni Lal Dhawan and the enquiry was therefore vitiated. I also find that action was taken against him because of his Trade Union activities.

38. It was then urged that if the enquiry is held not proper and even if the finding of the enquiry is not accepted, the Tribunal should hold the charges proved on the evidence led before it. In this connection, the learned Advocate for the company said that there were two charges against Raju Singh, the first was that he abused and threatened Sukar Turi and the second was that he tried to assault Chuni Lal Dhawan. He fairly conceded that so far as second charge is concerned, there is no evidence before the Tribunal to hold it proved because not only was Chuni Lal not examined as a witness but even Sukar Turi who was the only witness examined on the point has not fully supported the management's case. He however urged that the Tribunal should accept Sukar Turi's evidence and hold the first part of the charge proved.

39. The first part of the charge is that Raju Singh abused and threatened Sukar Turi. It is true that Sukar Turi in his deposition before the Tribunal says so. On the other hand, Raju Singh denies it. There is thus word against word. Sukar Turi's demeanour in the witness box was far from satisfactory and he appeared to have a tutored witness. I am not prepared to believe him and I do not attach any importance to his evidence. Other witnesses were available and could and should have been examined in support of this charge. This has not been done. I am therefore not satisfied that this charge is proved.

40. The result is that on merits also I am not satisfied that the charge is proved. Hence, I hold that the dismissal of Raju Singh, Trammer, is not justified. He must therefore be reinstated with continuity of service and with full payment of wages and other benefits as if he has all along been in service. The company shall also pay Rs. 200/- to the Union as costs.

I pass my award accordingly.

Sd./- L. P. DAVR,

Dated 10th September 1963.

Presiding Officer.

[No. 2/75/62-LRII.]

**S.O. 2774.**—In pursuance of section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the following award of the Industrial Tribunal, Dhanbad, in the industrial dispute between the employers in relation to the Saunda Colliery and their workmen, which was received by the Central Government on the 13th September, 1963.

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL,  
DHANBAD

In the matter of a reference under Section 10(1)(d) of Industrial Disputes Act, 1947 (XIV of 1947).

REFERENCE No. 22 OF 1962

## PARTIES:

Employers in relation to Saunda Colliery

AND

Their workmen.

## PRESENT:

Shri Raj Kishore Prasad, M.A., B.L.,  
*Presiding Officer.*

## APPEARANCES:

*For the Employers:* Sri S. S. Mukherjee, Advocate, with Sri K. C. Ray, Chief Personnel Officer with Sri J. P. L. Sinha, Group Personnel Officer.

*For the Workmen:* Sri D. Narsingh, Advocate.

STATE: Bihar.

INDUSTRY: Coal.

*Dhanbad, dated the 6th June, 1963*

## AWARD

Ministry of Labour & Employment, Government of India, by its Order No. 2/52/62/L.R.II, dated the 17th July, 1962, referred, under Section 10(1)(d) of Industrial Disputes Act, 1947, for adjudication to this Tribunal, the following industrial dispute between the parties to this reference:—

“Whether the dismissal of Shri Jagannath Prasad, Clerk Grade II, from service, by the management of the Saunda Colliery of Messrs. Karanpura Collieries Ltd. was justified and, if not, to what relief is he entitled?”

2. The Colliery Staff Association, on behalf of the workman concerned, filed his written statement of claim on 16th August 1962, to which the employers filed a rejoinder on 3rd September 1962.

3. The case of the workman, in his written statement, was that he was an old employee of the company for about 12 years since the 14th June 1950 and had throughout a clean record; that in order to victimise him for his trade union activities, as he had resigned from the recognised trade union and joined another union, namely, Colliery Staff Association, which was not recognised by the management and which was very much disliked by it, he was dismissed from the company's service with effect from 6th February 1962; that on 23th January 1962, which was the Republic Day, he addressed a union meeting, in the presence of the officers of the Colliery in the course of which he strongly criticised the officers and others of the Colliery for the malpractices and ill-treatment of the workmen; that, therefore, the Manager became all the more annoyed and prejudiced against him and on the following day on 27th January 1962 served him with a charge sheet accusing him of having dishonestly over-billed the account of Shri Ramu Sardar and his team of wagon loaders for work done in the week ending the 13th January 1962 by showing two wagons loaded by them during the week for which payment was made by him on 20th January 1962, though no wagons were reported to have been loaded by them during that particular week; that he replied to the said charge sheet and the so called enquiry was also held into the said charge sheet on 29th/30th January 1962 but it was not a fair enquiry and it was in utter violation of the principles of natural justice, inasmuch as, he also wanted to examine material witnesses to prove his innocence but the enquiry officer, who was the Welfare Officer of the company, under the influence of the Manager, did not call them, namely, loading coolies, from among the team of Ramu Sirdar; that he admits having prepared the wage bill in question, but till the date of payment of wages he was not aware that he would also have to make the payment of wages as billed by him, and, therefore, there can be no scope of committing any theft, fraud, or dishonesty, and without a premeditated plan there is no question of committing such a misconduct; that he after the enquiry, sent a letter on 1st February 1962 to the Manager asking for giving reasons and asking for a fresh enquiry as he was not given proper opportunity to defend

himself at the said enquiry as till then the letter of dismissal had not been issued but the Manager did not reply to the said letter and instead issued the letter of dismissal on 6th February 1962; that the finding of the enquiry officer was totally baseless and frivolous, even on the basis of the so called aforesaid enquiry; that as a clerk entrusted with the payment of bill he made correct payment to all the workmen and has not paid anything less than contained in the bill as alleged by Ramu Sirdar before the enquiry officer, and that, therefore, his dismissal was unjustified and inoperative and *malafide* and, therefore, his dismissal was fit to be set aside and he should be reinstated with full back wages.

4. The management, in its written statement, stated that the present dispute was only an individual dispute and that the Colliery Staff Association was not the representative Union of the workman concerned. These two objections however were not pressed at the time of the hearing, and, therefore, they need not be taken any notice of at all. The real defence of the management was that as the Manager had found some suspicious double payments he wanted a check to be made of the payments and accordingly the manager instructed to check the loading bills for the week ending 13th January 1962, payment whereof was made on 20th January 1962; that, on scrutiny of the wage sheets for wagon loaders for the week ending 13th January 1962, certain discrepancies were found and thereupon the Manager checked the loading bill in question, and from the loading statement sheets prepared by loading clerks from which the bills were prepared by the workman concerned and from the loading clerk's loading abstract it was found that the total wagons billed for the week ending 13th January 1962 by the workman concerned were 144, whereas, all the statements and registers recorded 142 wagons only and on further enquiry it was found that the two extra wagons were billed in the name of Ramu Sirdar, although his gang of workers had not loaded any wagon but had loaded only trucks during the week in question; that after the above misconduct a charge sheet dated 27th January 1962 was issued to the workman concerned to which he gave a reply and thereafter a departmental enquiry was held in the presence of the workman concerned in which he was given full opportunity to cross-examine witnesses of the company and also to examine his own defence witnesses, which he did; that at the said domestic enquiry the misconduct of the workman concerned was proved and, therefore, the Manager, by his letter dated 1st February 1962, recommended his dismissal to the Chief Mining Engineer and thereafter the workman was dismissed by a letter dated 6th February 1962; that it is difficult to check and find out planned defalcation, as in the instant case, and, therefore, when such instances are detected strong action is called for as it is such staff on whose integrity the administration has to depend, and that, therefore, for these reasons, the workman concerned was dismissed and as such his dismissal was justified.

5. The management was represented at the hearing by Sri S. S. Mukherjee, Advocate, who, in support of his case, examined M.W.1, Shri Doshabandu Gupta, Welfare Officer who conducted the enquiry, and M.W. 2, Sri H. M. Chatterjee, Cashier, and also filed documents, which with mutual consent, were marked as Exhibits M to M. 11.

The workman concerned was represented by Sri D. Narsingh, Advocate, who appeared for the Union representing the workman and he examined the workman concerned Shri Jagannath Prasad, W.W.1 in support of his case and also filed documents which also with mutual consent, were marked as Exhibits W to W. 19.

6. The admitted facts of the case are these:

(a) Admittedly the workman concerned, Shri Jagannath Prasad, is a tally clerk in the service of the company since 1950 and his service record throughout this period before the week ending 13th January 1962, which would mean 7th January, 1962, to 13th January, 1962, was absolutely clean and during this period he was never before charged sheeted for any alleged misconduct.

(b) In his capacity as bill clerk, as admitted by him as W.W.1, he was preparing the bill for the week ending 13th January, 1962, Exhibit M. 6, for Ramu Wagon Loader and his gang and mentioned two wagons against Ramu's name, who worked along with other six workers in his gang and he was also a wagon loading Sirdar, besides being a wagon loader in his gang. W.W. 1 admitted that Ramu was paid certain amount of Sirdar commission on the total number of wagons loaded by him. The workman W.W. 1 further admitted that he was preparing bill Exhibit M. 6 on the basis of loading statements given to him;

(c) The admitted procedure for preparing the bill is that on the basis of loading clerks' register loading clerks' statements are prepared and on the basis of loading clerks' statement the bills are prepared. There is no dispute about this procedure;

(d) According to the management the Loading Inspectors report which is in the form of a register, is Exhibit M. 3, and from Exhibit M. 3 the loading Clerk's statement sheet for the week ending 13th January, 1962, Exhibit M. 4 was prepared, and on the basis of this Exhibit M. 4 the bills were prepared for the said week by the workman concerned which are Exhibit M. 6;

(e) The case of the workman concerned, as deposed to by him as W.W. 1, is that the loading statement given to him and on the basis of which he prepared the bill Exhibit M. 6, is not the same statement which has been filed by the management as Exhibit M. 4, which was never given to him at the time when he made the bill and that was different statement which showed a total of 144 wagons, and that the statement, on the basis of which he prepared the admitted bill Exhibit M. 6 was removed from his drawer by some unknown person and a new one was substituted in its place showing a total of 142 wagons; and,

(f) The workman W.W. 1 admitted that he was preparing wagon loaders' bill on the basis of loading statements which were made in the handwriting of Sri N. K. Khumbhakar. He admitted to have made wagon loaders' bill for the week ending 6th January, 1962, and the week ending 20th January, 1962, on the basis of statements prepared by Sri Khumbhakar in his own hand-writing which have been filed by the management and marked Exhibits M. 8 for the week ending 6th January, 1962, and M. 6 for the week ending 20th November, 1962.

On the above facts, the real controversy centres round Exhibit M. 4 and the question is whether Exhibit M. 4 is genuine or a faked one, and whether the story of the workman concerned that the real loading clerk's statement which showed 144 wagons on the basis of which he prepared Exhibit M. 6 showing 144 wagons had been removed from his drawer as alleged by him.

7. A charge sheet dated 27th January, 1962, Exhibit M, was served on the workman, in which he was charged under Standing Order No. 27(2) for theft, fraud or dishonesty, in that, on checking wage sheet for wagon loading for the week ending 13th January, 1962, 20th January, 1962, the wage sheet for that week having admittedly been prepared and payment also made by the workman concerned, it was detected that he made entry of two wagons in the name of Ramu Sirdar, though no such wagon was loaded by his gang in that week, and also such wagons were not entered in the loading clerk's statement sheet from which the bills were prepared. Exhibit M. 4 from which the bill Exhibit M. 6 was in the loading Wagon's, report prepared, does not show these two wagons which are not entered also in the loading clerks' register Exhibit M. 3, in which all wagons despatched through the week are booked. The workmen on 29th January 1962, submitted his reply which would be found on the reverse of Exhibit M. On 29th January, 1962, the workman was given a notice Exhibit M. 2 informing him that regarding the charge sheet issued against him an enquiry will be held at the Manager's office on 30th January, 1962 at 9-30 a.m. and therefore he was asked to attend the enquiry with evidence, if necessary, to substantiate his explanation to the charge sheet. This notice was admittedly received by the workman on the same day, 29th January, 1962. Enquiry, thereafter was conducted by the Welfare Officer M.W. 1 on two days, that is, on 30th January, 1962 and 31st January, 1962, in the presence of the workman. The statement of Shri Jagannath Prasad, the workman, Exhibit M. 1(a), was recorded and he was cross-examined by the Enquiry Officer. At the said enquiry, on behalf of the Company, Sri A. K. Chatterjee, Manager, (Exhibit M. 1(b); Sri Ramu Sirdar, Wagon Loader (Exhibit M. 1(c); Sri N. K. Kumbhakar Loading Clerk, (Exhibit M. 1(d); Sri H. M. Chatterjee, Cashier, M.W. 2 (Exhibit M. 1(e) were examined by the management and cross-examined by the workman concerned. The workman also examined two defence witnesses Shri P. N. Chatterjee, a Clerk of the Bill Section (Exhibit M. 1(f) and Sri S. S. Chakravarti, Despatch Clerk, (Exhibit M. 1(g) who were cross-examined by the Welfare Officer.

8. After the enquiry, the Enquiry Officer submitted his enquiry report dated 31st January, 1962 Exhibit M. 1. On 1st February, 1962 the Manager sent a report to the Chief Mining Engineer recommending the dismissal of the workman Exhibit M. 11. Exhibit M. 11 further shows that the dismissal was approved on 2nd February, 1962 by the Chief Mining Engineer and the Chief Personnel Officer was directed to examine once again before issue of the letter of dismissal to the workman concerned. The Chief Personnel Officer then sent a letter dated 3rd

February, 1962, to the Manager approving the draft letter and directed that action be taken in accordance with the draft letter attached which was sent to him for being examined once again. Finally, the Manager issued a letter on 6th February, 1962 (Exhibit M. 5) to the workman informing him that the charge sheet issued under Standing Order 27(2) had been proved and therefore he was dismissed from service with immediate effect and he was asked to collect his dues immediately after handing over company's quarters. The matter was thereafter taken up by the Conciliation Officer who submitted his failure report Exhibit W. 18 on 14th May, 1962.

9. Sri D. Narsingh, on behalf of the workman, contended that the enquiry was not fair because the answers in the cross examination made by the company's witnesses at the instance of the workman were not fully recorded by the Enquiry Officer M.W. 1 and the workman was not given any opportunity to examine the workers who worked in the gang of Ramu Sirdar during the week ending 13th January, 1962 including the Welfare Officer, namely, the Enquiry Officer, who had seen the workman making a search for the missing loading clerk's statement which had been substituted by Exhibit M. 4; that the workman's application Exhibit W. 16 made to the Manager on 1st February, 1962, for re-enquiry, was not acceded to by the Manager, and that the finding of the Enquiry Officer was perverse. On these grounds it was urged that the enquiry should be held to be mala fide and unfair and dismissal of the workman should be held to be due to victimisation and not bona fide and the charge against him should be held not proved.

10. Sri Mukherjea, on behalf of the management, in reply, submitted that the enquiry was conducted in the presence of the workman concerned and he was given an opportunity to cross-examine the witnesses examined for the company and he did cross examine them and also examined his own two defence witnesses but at no stage before the Enquiry Officer he made any complaint or protest on the ground that the Enquiry Officer being himself a witness for the workman, as mentioned in his reply Exhibit M. he could not hold the enquiry or that the answers given by the witnesses of the Company, in their cross examination, at the instance of the workman, had not been fully recorded or that he wanted to examine either the Enquiry Officer, who was the Welfare Officer, or, the workers who were working in the gang of Ramu Sirdar, and, therefore, the belated attempt of the workman by filing an application to the Manager for re-enquiry after the enquiry was finished and after the enquiry report was submitted is not bona fide and also contradictory to the stand taken now, and, therefore, the enquiry and the finding of the Enquiry Officer should not be said to be perverse because it was supported by Exhibit M. 3, which was not challenged as not genuine, and also by the evidence of the witnesses examined on behalf of the Company. It was contended that in such a situation the enquiry being bona fide and quite fair this Tribunal had no jurisdiction to sit in appeal over the finding of the Enquiry Officer on the evidence adduced then and on the additional evidence given now before the Tribunal and decide whether the finding of the Enquiry Officer was good or bad. In support of his contention Shri Mukherjea relied on two decisions of the Supreme Court in *Indian Iron and Steel Co. Ltd. and Their Workmen* 1958 (I) L.L.J. 280 and *Doom Doom Tea Co. Ltd. and Assam Chah Kar-machari Sangha and another* 1960 (II) L.L.J. 56.

11. The principles which should guide a Tribunal in deciding such a case, like the present, has been repeatedly laid down in several cases of the Supreme Court, and, therefore, there is no longer any doubt. The most recent case, on which I could lay my hand, is *Tata Oil Mills Co. and Their workmen* 1963 (6) F.L.R. 257, in which his Lordship Gajendragadkar, J. speaking for the Court, at page 259 observed:

"The true legal position about the jurisdiction of the Tribunal in dealing with an industrial dispute of this type is now well settled. If it is shown that the employer has held a proper enquiry, the Tribunal would not be entitled to consider the propriety or the correctness of the conclusions reached by the Enquiry Officer at such enquiry. The Tribunal will be entitled to consider the said conclusions if they appear to be perverse or if the Tribunal is satisfied that the enquiry was unfair, or either the proceedings or the final order passed against the workmen amounted to victimisation or adoption of an unfair labour practice. If none of these facts is established, then the

findings made by the Enquiry Officer in the domestic enquiry should be taken to be binding against the employee."

12. In the light of the above principles, let us now examine the facts of the instant case, on which the Tribunal is called upon to decide whether the dismissal of Shri Jagannath Prasad was wrongful or not.

13. Regarding the first objection to the enquiry by Shri Narsingh that it was not fair for the reasons given before, in my opinion, there is no substance in it. The enquiry was admittedly conducted in the presence of the workman concerned and also admittedly the witnesses of the company were examined in his presence and cross examined by the workman and he also examined two witnesses on his behalf. Never in the course of the enquiry, which was held for two days on 30th January, 1962 and 31st January, 1962 by the Enquiry Officer M.W. 1, the workman ever protested in writing that either the enquiry should not be held by the Enquiry Officer himself, because he was a witness to the fact that the workman searched for the loading Clerk's statement in his presence or that the answers given by the Company's witnesses in their cross-examination at the instance of the workman had not been fully recorded or that he also wanted to examine the workers, who worked in the Gang of Ramu Sirdar, but they had not been examined by the Enquiry Officer. It is only in the evidence before the Tribunal that the workman, W.W. 1, has made out his grievances and said that he orally informed the Enquiry Officer that he wanted to examine the loading coolies who were working with Ramu Sirdar on the relevant date but he was not allowed to do so and that he verbally requested the Enquiry Officer to summon those witness. These facts are denied by the Welfare Officer M.W. 1 who held the enquiry. He has said that it was not true that the workman wanted to examine more defence witnesses but he prevented him from doing so. Moreover, even in his protest petition Exhibit W. 16, which he filed after the enquiry was concluded and the enquiry officer had submitted his report M. 1 on 31st January, 1962, the workman, in the said application for re-enquiry made to the Manager on 1st February 1962, did not make these specific allegations. On the other hand, he said in Exhibit W. 16 that the Enquiry Officer had refused to take any witness from his side, but this is absolutely false, because admittedly he examined two defence witnesses, whose statements are Exhibits M. 1(f) and M. 1(g). Further, in Exhibit W. 16 he did not say that the Enquiry Officer having named as a witness in his reply Exhibit M. should not have held the enquiry nor did he say that the statements of the witnesses of the company made in their cross-examination at the instance of the workman had not been fully recorded. The only grievance made by the workman in Exhibit W. 16 was that the manager had threatened the Welfare Officer and therefore he refused to take his witness. The Welfare Officer admitted, that the manager was present at the enquiry to give his statement, but he (M. W. 1) said that it is not correct that he was influenced by the Manager of the Colliery in conducting the enquiry and in submitting his report. There is no reason to disbelieve him simply because he was an employee of the company. It appears that before the Conciliation Officer (Central), Dhanbad, a list of questions claimed by the workman to have been put and their answers given by the Manager and other witnesses at the enquiry before the Welfare Officer, Exhibit W. 17 was filed which will appear from the failure report dated 14th May 1962, Exhibit W. 18 of the Conciliation Officer. But in my opinion, no reliance could be placed on this afterthought and much belated effort to prove the allegation that questions were sought to be put in the cross-examination to the company's witnesses but they were disallowed by the Enquiry Officer or that the answer given by them was not fully recorded. I have, therefore, no doubt that the evidence given by the Welfare Officer is correct and true, and his evidence must be accepted and, therefore, I hold that the enquiry was fair and the alleged grounds on which enquiry is sought to be unfair and violative of the principles of natural justice are not supported by any reliable evidence and are not true and are imaginary and have no basis to support.

14. The next objection taken by Shri D. Narsingh was that the finding of the Enquiry Officer was perverse. In order to prove this he attempted to place before me certain facts and circumstances to show that the finding is either contrary or not supported by the evidence. But I am not sitting in appeal over the finding of the Enquiry Officer, and, therefore, I do not think on the ground of alleged contradictions it can be said that the finding is perverse. If there had been no evidence at all to support the finding of the Enquiry Officer,

then certainly the finding of the Enquiry Officer would have been patently perverse on the evidence on the record and in that case the matter would have been different. Here, however, that is not the case. The Enquiry Officer Exhibit W. 1 has summed up his finding in these words:

"The charge given against the accused is proved by the document that he has made bill for two wagons on Ramu Sirdar's name which is not shown in the loading Clerk's statement sheet as Ramu Sirdar was engaged in the truck loading."

15. The documents referred to by the Enquiry Officer in Exhibit M. 1 are Exhibits M. 3 and M. 4. Exhibit M. 3 has not been challenged as not genuine and admittedly on the basis of the loading inspector's report, such as Exhibit M. 3, loading clerk's statements are prepared, and, therefore, in the present case, Exhibit M. 3 is sufficient and quite reliable to support the genuineness of Exhibit M. 4 and to support the finding of the Enquiry Officer. It cannot therefore, be said that there was no evidence whatsoever to support the finding of the enquiry officer or that it was contradictory to the evidence on the record. The Enquiry Officer, after taking into consideration the statement of the workman concerned M. 1(a), statement of his defence witness Exhibit M. 1(b) and M. 1(g) and the statements of the witnesses of the Company Exhibit M. 1(b) to M. 1(e) and after taking into consideration also the documents Exhibit M. 3 and M. 4, he was satisfied that the admitted bill prepared by the workman, Exhibit M. 6, was wrong and it proved that the workman had shown two wagons more in the name of Ramu Sirdar, although he did not load any wagon but loaded truck only. It cannot, therefore, be said that the Enquiry Officer had no evidence to support his finding.

16. There is one more circumstance which also supports fully the finding of the Enquiry Officer. Ramu Sirdar was examined and his statement is Exhibit M.1(c). He said that he had loaded only trucks on 13th January, 1962 and had done no other work except truck loading for which he had drawn a sum of Rs. 133 and some loose coins and that he had not done wagon loading in that week. The amount shown as payable to Ramu Sirdar, at page 48, of the wage sheet Exhibit M. 6, according to which admittedly the payment was made by the workmen on 20th January, 1962, is Rs. 164.50 nP. But Ramu Sirdar said in his statement, just mentioned, Exhibit M.1(c) that he received only Rs. 133 and some N.P. amounting to 8 or 10 annas. Much was made of the fact that Ramu Sirdar stated in his statement that he had not paid any amount to the accused from the sum he had drawn. That may be so. But the fact remains that the accused obviously retained the balance amount out of Rs. 164.50 nP. after paying Rs. 133.50 nP. to Ramu Sirdar. This circumstance does prove the guilt of the workman concerned. The fact that the workman had good record throughout and he was never punished or charge sheeted before, in my opinion, is no ground for holding that the finding of misconduct proved at the domestic enquiry is perverse or not true. If the workman is guilty of misconduct as contemplated by Standing Order No. 27(2) Exhibit M. 7, he having been found guilty of this misconduct, his dismissal was natural.

17. It was argued by Shri Narsingh that Standing Order No. 27(2) speaks of *theft fraud, or dishonesty* in connection with the company's business or property, but here there was no question of theft or fraud. In my opinion, this contention has no force. If the workman showed two wagons in the name of Ramu Sirdar, although he had loaded no wagon, the increase in the number of wagons from 142 to 144 certainly is an act of dishonesty and the fact that he paid only Rs. 133.50 to Ramu Sirdar, instead of Rs. 165.50, clearly goes to show that he committed dishonesty and he was guilty of misconduct as contemplated by Standing Order 27(2). It was also argued by Shri Narsingh that the statement of Ramu at the enquiry Exhibit M. 1(c) that he was paid Rs. 133.50 is falsified by the fact that the wage sheets Exhibit M. 6, at page 50, shows that he was paid Rs. 23.50, which was paid to the other six workers also who were in his gang. It was further argued that page 50 of Exhibit M. 6, shows that each of these seven workers including Ramu, was paid Rs. 23.50 the total of which is Rs. 164.50, and, therefore, Ramu was not paid in lump of Rs. 133.50, now alleged by them. But, in my opinion, the answer to the criticism is to be found at page 48 of Exhibit M. 6, where Ramu Sirdar has been shown as having been paid Rs. 164.50 in one lump. These facts are there and, therefore, it was open to the Enquiry Officer to draw conclusions of his own which he did and as such it cannot on that ground be said that the finding of the Enquiry Officer was perverse and



that it was not supported by any evidence or that it was entirely contrary to the evidence on record.

For the reasons given above, I hold that the finding of the Enquiry Officer is not perverse and is quite fair and supported by evidence on record.

18. Lastly, it was urged by Shri Narsingh that the workman had been victimised due to the speech which he delivered on 26th January, 1962 criticising the officers of the company and, therefore, the very next day on 27th January, 1962 he was served with a charge sheet. No doubt this argument on the above facts appears attractive, but if we deliver deeper into this argument and witness its artificiality, it will be found that here is no substance in this criticism also. As rightly pointed out by Shri Mukherjee, actually the cause of action for the charge sheet arose on 20th January, 1962, that is, the date when the excess amount was paid by the workman to Ramu Sirdar and, thereafter, the matter was enquired into and checked and ultimately it was found on 27th January, 1962 that the *prima facie* charge had been made out against the workman and therefore he was charge-sheeted on 27th January 1962, and therefore, it was nothing but a mere coincidence that the charge sheet was given to him on 27th January, 1962, the next day after his speech on 26th January, 1962 but it is not at all a case of victimisation. In my opinion, the argument of Sri Mukherjee seems to be correct. Shri S. Chakravarty, Despatch Clerk, whose statement at the enquiry as a witness for the workman, as D.W.2 is Exhibit M.1(g), stated that the Manager asked him to check up the bill and the wagon loading of the week ending 13th January, 1962, but as he did not know the system of checking the bill he requested the cashier to check it. 20th January, 1962 was a Saturday, 21st January, 1962 was a Sunday and 22nd January, 1962 was a Monday. Shri H. M. Chakravarty, the Cashier, stated before the Enquiry Officer, as will appear from Exhibit M.1(e), that he started checking on 23rd January, 1962 or 24th January, 1962 and he informed the Manager on 25th January, 1962, that there was some discrepancy. The Manager Shri A. K. Chatterjee stated in his statement before the Enquiry Officer, Exhibit M.1(b), that the Cashier M.W.2, informed him on 27th January, 1962 about the mistake. On these facts, therefore, it is manifest that the misconduct of the workman concerned was established before he delivered the speech on 26th January, 1962 and not after it. For these reasons, in my opinion, it cannot be said that there has either been any delay in making the charge sheet or that there has been any victimisation because of the speech of the workman on 26th January, 1962, and, therefore, he has been dismissed from the Company's service. This contention, therefore, is rejected.

19. The case of Bengal Bhattee Coal Co. Ltd. and Ram Probesh Singh and others, 1963 (1) L.L.J. 291 relied upon by Shri Narsingh on the question of victimisation, in my opinion, does not help him, rather, it is against him. In that case, it was held by the Supreme Court that fact that the relation between the employer and the union were not happy and the workmen concerned were office bearers or active workers of the Union would by itself be no evidence to prove victimisation, for if that were so it would mean that the office bearers and active workers of a union, with which the employer is not on good terms, would have a *carte blanche* to commit any misconduct and get away with it on the ground that relations between the employer and the Union were not happy. In such a case, the finding of victimisation of the Tribunal should be characterised as one based merely on conjectures and surmises.

20. For the reasons given above, I would answer the reference in favour of the management by saying that the dismissal of Shri Jagannath Prasad, Clerk Grade II, from the service of the management of the Saunda Colliery of Messrs. Karanpura Collieries Ltd. was justified and, therefore, the said workman was not entitled to any relief.

21. This is the award which I make and submit to the Government of India, under Section 15 of the Act.

DHANBAD,  
Dated the 6th June, 1963.

(Sd.) RAJ KISHORE PRASAD,

Presiding Officer,  
Central Govt. Industrial Tribunal  
Dhanbad.

[No. 2/52/62-LR.II.]

## ORDERS

*New Delhi, the 17th September 1963*

**S.O. 2775.**—In exercise of the powers conferred by clause (d) of sub-section (1) of section 10 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby makes the following amendments in the Order of the Government of India in the Ministry of Labour and Employment, No. S.O. 2626 dated the 27th October, 1961, namely:—

In the Schedule to the said Notification, in item 3, for the words and figures "for the years 1958-59 and 1959-60", the words and figures "for the calendar years 1958 and 1959" shall be substituted.

[No. 23/17/61-LR.II.]

**S.O. 2776.**—In exercise of the powers conferred by clause (d) of sub-section (1) of section 10 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby makes the following amendments in the Order of the Government of India in the Ministry of Labour and Employment, No. S.O. 1568 dated the 29th May, 1963, namely:—

In the Schedule to the said Notification, for the words and figures "from the 1st January, 1958 to the 31st March, 1958 and from the 1st April, 1960", the words and figures "from the 1st January, 1960" shall be substituted.

[No. 23/17/61-LR.II-II.]

*New Delhi, the 18th September 1963*

**S.O. 2777.**—In exercise of the powers conferred by section 7A and clause (d) of sub-section (1) of section 10 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby makes the following amendment in the Order of the Government of India in the Ministry of Labour and Employment No. S.O. 1879 dated the 27th June 1963, namely:—

In the said Order, for the words "with headquarters at Patiala" the words "with headquarters at Chandigarh" shall be substituted.

[No. 51(13)/63-LR.IV.]

*New Delhi, the 19th September 1963*

**S.O. 2778.**—Whereas, the Central Government is of opinion that an industrial dispute exists between the employers in relation to the Dutta's Central Kajora Colliery, Post Office Kajoram, District Burdwan and their workmen in respect of the matters specified in the Schedule hereto annexed;

And, whereas, the Central Government considers it desirable to refer the said dispute for adjudication;

Now, therefore, in exercise of the powers conferred by clause (d) of sub-section (1) of section 10 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby refers the said dispute for adjudication to the Industrial Tribunal, Dhanbad, constituted under section 7A of the said Act.

## SCHEDULE

Whether the management of Dutta's Central Kajora Colliery had refused employment to Sarvashri Mohanlal Srivastav, Machine Driver, Guiram Goswami and Shyamapada Gunguly, Pump Khalasis, on or about 12th July 1963; if so, whether the action of the management is legal and justified? If not, to what relief are the workmen entitled?

[No. 8/23/63-LR.II.]

**S.O. 2779.**—Whereas, the Central Government is of opinion that an industrial dispute exists between the employers in relation to the Ena Colliery, Post Office Dhansar (District Dhanbad) and their workmen in respect of the matters specified in the Schedule hereto annexed;

And, whereas, the Central Government considers it desirable to refer the said dispute for adjudication;

Now, therefore, in exercise of the powers conferred by clause (d) of sub-section (1) of section 10 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby refers the said dispute for adjudication to the Industrial Tribunal, Dhanbad, constituted under section 7A of the said Act.

#### SCHEDULE

Whether the retrenchment of Shri Nisar Ahmad was legal and justified?  
If not, to what relief is he entitled?

[No. 2/46/63-LRII.]

**S.O. 2780.**—Whereas, the Central Government is of opinion that an industrial dispute exists between the employers in relation to the Samla Collieries Limited, Post Office Pandaveshwar, District Burdwan and their workmen in respect of the matters specified in the Schedule hereto annexed;

And, whereas, the Central Government considers it desirable to refer the said dispute for adjudication;

Now, therefore, in exercise of the powers conferred by clause (d) of sub-section (1) of section 10 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby refers the said dispute for adjudication to the Industrial Tribunal, Dhanbad, constituted under section 7A of the said Act.

#### SCHEDULE

Whether the suspension of Sarvashri Kirtan Pradhan, Banamali Pradhan, Bancha Behra and Parsuram Behra, loaders, from 27th April 1963 to 6th May 1963 by the management of Samla Collieries Limited, was justified; if not, to what relief the workmen are entitled?

[No. 6/18/63-LRII.]

**S.O. 2781.**—Whereas, the Central Government is of opinion that an industrial dispute exists between the employers in relation to the Toposi Colliery and their workmen in respect of the matters specified in the Schedule hereto annexed;

And, whereas, the Central Government considers it desirable to refer the said dispute for adjudication;

Now, therefore, in exercise of the powers conferred by clause (d) of sub-section (1) of section 10 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby refers the said dispute for adjudication to the Industrial Tribunal, Calcutta, constituted under section 7A of the said Act.

#### SCHEDULE

Whether Shri Kashinath Panda, line mistry, had voluntarily resigned with effect from the 7th June 1963 and if not, to what relief is he entitled to?

[No. 6/16/63-LR.II.]

**S.O. 2782.**—Whereas an industrial dispute between the Indian Bank Limited and their workmen in respect of the matter specified in the Schedule hereto annexed was referred for adjudication to the Industrial Tribunal, Madras presided over by Shri P. N. Ramaswamy, by the Order of the Government of India in the Ministry of Labour and Employment No. S.O. 1630, dated the 4th June, 1963 and was pending before the said Industrial Tribunal;

And whereas, consequent on the demise of Shri P. N. Ramaswamy, his services have ceased to be available;

Now, therefore, in exercise of the powers conferred by section 7A clause (d) of sub-section (1) of section 10, and sub-section (1) of section 33B of the Industrial Disputes Act, 1947 (14 of 1947) the Central Government hereby constitutes an Industrial Tribunal with Shri S. Ganapatia Pillai as the Presiding Officer thereof, with headquarters at Madras, withdraws the proceedings in relation to the said dispute from the Industrial Tribunal presided over by late Shri P. N. Ramaswamy and transfers the same to the Industrial Tribunal constituted with Shri S. Ganapatia Pillai as the Presiding Officer thereof and directs that the said Industrial Tribunal shall proceed with the said proceedings from the stage at which they are transferred to it and dispose of the same according to law.

## SCHEDULE

Whereas an Industrial dispute exists between the Indian Bank Limited and (1) 'The Indian Bank Employees' Union, Madras (2) 'The Federation of the Indian Bank Employees' Unions, Madras and it is expedient that the matters specified in the enclosed statement which are connected with or relevant to the dispute should be referred to adjudication by an Industrial Tribunal (Central), an application is hereby made under sub-section (2) of Section 10 of the Industrial Disputes Act, 1947 that the said dispute should be referred to an Industrial Tribunal (Central). This application is made by the representatives of the Union who have been duly authorised to do so by virtue of a resolution (copy enclosed) adopted by a majority of the members of the Executive Committee present at a Conference of the Federation of the Indian Bank Employees' Unions held on the 13th, 14th and 15th of November, 1959 and by the Indian Bank Ltd., by its Secretary. A statement giving particulars required under rule 3 of the Industrial Disputes (Central) Rules, 1957 is attached.

Dated this 30th Day of November 1959.

(Sd.)

(Sd.)

1. T. RAMAKRISHNA RAO,  
Secretary, Indian Bank Ltd.  
Madras, representing  
employer.

2. S. SUBRAMANIAM,  
representing Indian Bank  
Employees' Union, Madras.

(Sd.)

3. A. ANNAMALAI,  
representing the Federation  
of the Indian Bank Employees'  
Unions, Madras.

4. R. B. BHATT,  
representing the  
Federation of the Indian  
Bank Employees' Union,  
Madras.

To

The Secretary to the Government of India,  
Ministry of Labour,  
New Delhi.

Statement required under Rule 3 of the Industrial Disputes (Central) Rules, 1957 to accompany the form of application prescribed under sub-section (2) of Section 10 of the Industrial Disputes Act, 1947.

(a) Parties to the Dispute:

1. The Management of Indian Bank Ltd., Indian Bank Buildings, 17, North Beach Road, Madras-1.
2. The workmen of the Indian Bank Ltd., employed by it throughout the Union of India represented by:
  - (i) The Indian Bank Employees' Union, 39, Second Line Beach, Madras-1; and
  - (ii) The Federation of the Indian Bank Employees' Unions, 39, Second Line Beach, Madras-1.

(b) Specific matters in dispute:

What should be the quantum of bonus payable to the workmen for the year 1957.

(c) Total number of employees employed in the undertaking affected:

2349

(d) Estimated number of employees affected or likely to be affected by the dispute:

2349

- (e) Efforts made by the parties Mutual negotiation—strike for three days on the 15th, 16th and 17th themselves to adjust the dispute: April, 1958. Agreement dated 17th April 1958.

(Sd.)

(Sd.)

1. T. RAMAKRISHNA RAO,  
Secretary, Indian Bank Ltd.,  
Madras, representing the  
employer.
2. S. SUBRAMANIAM,  
Vice President, The Indian  
Bank Employees' Union, Madras.
3. R. B. BHATT,  
Secretary-General, Federation  
of the Indian Bank Employees'  
Unions, Madras.
4. A. ANNAMALAI,  
President, Federation of the  
Indian Bank Employees' Unions,  
Madras.

COPY OF THE RESOLUTION PASSED AT A CONFERENCE OF THE FEDERATION OF THE INDIAN BANK EMPLOYEES UNIONS, MADRAS HELD ON 13TH, 14TH AND 15TH OF NOVEMBER, 1959.

"In the light of the letter of the Under Secretary to the Government of India dated 12th October, 1959, resolved to amend the joint application with regard to bonus for the year 1957 referring the same to the Central Government Industrial Tribunal, instead of the National Tribunal, as originally applied for."

(TRUE COPY)

(Sd.) A. ANNAMALAI,  
President.

(Sd.) R. B. BHATT,  
[No. 10(76)/58-LRIV.]

## ORDERS

*New Delhi, the 20th September 1963*

**S.O. 2783.**—Whereas, the Central Government is of opinion that an industrial dispute exists between the employers in relation to the West Jamuria Colliery of Messrs West Jamuria Coal Company Limited, Post Office Sitarampur and their workmen in respect of the matters specified in the Schedule hereto annexed;

And, whereas, the Central Government considers it desirable to refer the said dispute for adjudication;

Now, therefore, in exercise of the powers conferred by clause (d) of sub-section (1) of section 10 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby refers the said dispute for adjudication to the Industrial Tribunal, Calcutta, constituted under section 7A of the said Act.

## SCHEDULE

1. Whether the management of Messrs West Jamuria Coal Company Limited were justified in closing down their West Jamuria Colliery from the 15th September, 1963. If so, what amount is each workman entitled to get as compensation.
2. In case the closing down of the Colliery is found to have been unjustified, what amount is each workman entitled to get as compensation.

[No. 6/24/63-LRIL.]

*New Delhi, the 21st September 1963*

**S.O. 2784.**—Whereas, the Central Government is of the opinion that an industrial dispute exists between the employers in relation to the Bombay Port Trust and their workmen in respect of matters specified in the Schedule hereto annexed;

And, whereas, the Central Government considers it desirable to refer the said dispute for adjudication;

Now, therefore, in exercise of the powers conferred by section 7A and clause (d) of sub-section (1) of section 10, of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby constitutes an Industrial Tribunal with Shri M. R. Meher as the Presiding Officer thereof, with headquarters at Bombay and refers the said dispute to the said Tribunal for adjudication.

#### SCHEDULE

Whether it is obligatory on the part of the Mobile Crane Drivers, Gr. II, to operate vehicles with draw bar pull exceeding 3-1/2 tons in view of the fact that the Classification and Categorisation Committee has fixed the scale of Rs. 60-3-81-EB-4-105 "for tractors, mobile cranes and fork-lifts of 3-1/2 tons and below".

[No. F.28/63/63/LRIV]

*New Delhi, the 23rd September 1963*

**S.O. 2785.**—Whereas, the Central Government is of opinion that an industrial dispute exists between the employers in relation to the Bejdih Colliery of Messrs Equitable Coal Company Limited, Post Office Dishergarh, Burdwan and their workmen in respect of the matters specified in the Schedule hereto annexed;

And, whereas, the Central Government considers it desirable to refer the said dispute for adjudication;

Now, therefore, in exercise of the powers conferred by clause (d) of sub-section (1) of section 10 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby refers the said dispute for adjudication to the Industrial Tribunal, Dhanbad, constituted under section 7A of the said Act.

#### SCHEDULE

Whether the management of Bejdih Colliery of Messrs Equitable Coal Company Limited, Post Office Dishergarh is justified in ordering transfer of Shri Madan Chattaraj, Underground Time Keeper, from Bejdih Colliery to Ranipur Colliery as a clerk? If not, to what relief is he entitled?

[No. F.6/19/63-LRII]

**S.O. 2786.**—Whereas, the Central Government is of opinion that an industrial dispute exists between the employers in relation to the Toposi Colliery, Post Office Toposi, District Burdwan and their workmen in respect of the matters specified in the Schedule hereto annexed;

And, whereas, the Central Government considers it desirable to refer the said dispute for adjudication;

Now, therefore, in exercise of the powers conferred by clause (d) of sub-section (1) of section 10 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby refers the said dispute for adjudication to the Industrial Tribunal, Calcutta, constituted under section 7A of the said Act.

#### SCHEDULE

Whether the management of the Toposi Colliery was justified in refusing employment to Shri Malu Ram, Bailing Mazdoor, with effect from the 7th June 1963. If not, to what relief is the workman entitled?

[No. F.6/20/63-LRII]

A. L. HANDA, Under Secy.

*New Delhi, the 19th September 1963*

**S.O. 2787.**—In exercise of powers conferred by section 73F of the Employees' State Insurance Act, 1948 (34 of 1948), the Central Government, having regard to the location of the factories in sparse areas, exempts the factories situate in the areas in the State of Andhra Pradesh mentioned in the Schedule appended to this notification, from the payment of the employers' special contribution leviable under Chapter V-A of the said Act until the enforcement of the provisions of Chapter V of that Act in those areas.

## SCHEDULE

Sl. No.	Name of District	Name of the area	Name of the factory
1	Guntur	Chirala	The Chirala Cooperative Spinning Mills.
2	Mahbubnagar	Mahbubnagar	Central Diesel Station.
3	Nellore	Kavali	Ravi Iron and Steel Works.
4	West Godavari	Bhimavaram	Balaji Industries.

[No. F. 6(78)/63-HL.]

**S.O. 2788.**—In exercise of the powers conferred by section 73B of the Employees' State Insurance Act, 1948 (34 of 1948), the Central Government hereby makes the following further amendments in the notification of the Government of India in the Ministry of Labour and Employment No. S.O. 1514 dated the 26th June, 1959, namely:—

In the Table annexed to the said notification, for the entries relating to the State of Orissa, the following entries shall be substituted, namely:—

1	2	3
Orissa	1. Sub-Judge, Cuttack	District of Cuttack (excluding the Municipal limits of Cuttack and the revenue Villages Gunadol No. 223, Bahar Bisinabar No. 214, Naupara No. 217 and Khannagar No. 216, Choudwar area comprising the revenue villages of Choudwar, Kedaeswar, Mundamal, Kapaleswar, Sultanpur, Baripada, Chatissa II, Kalyansingpur, Daulatabad, Gopalpur, Jinipur Narasinghpur and Barang area comprising of the revenue village of Badhapatna in tahsil Cuttack) and including the areas of Athgarh, Baramba, Tigiria and Narasinghpur.
	2. Sub-Judge, Dhenkanal	District of Dhenkanal.
	3. Sub-Judge Puri	Puri Sadar.
	4. Sub-Judge, Balasore	District of Balasore including Nilgiri.
	5. Sub-Judge, Berhampur	District of Ganjam including taluks of R. Udayagiri, G. Udayagiri, Baliguda, district of Khandamals and Sub-Division of Boudh Sadar.
	6. Sub-Judge, Sambalpur	District of Sambalpur (excluding Brajanagar area comprising of the villages of Telonpali and Lamptibahal in Tahsil Jharsuguda) and district of Sundergarh (excluding Rajgangpur area comprising the revenue villages of Liploi, Ranipandh, Kumarkela and Lamloi in tahsil Rajgangpur).

I	2	3
	7. Sub-Judge, Bolangir	District of Bolangir.
	8. Sub-Judge, Bhawani- patna (Kalahandi).	District of Kalahandi.
	9. Sub-Judge, Keonjhar	District of Keonjhar.
	10. Sub-Judge, Bhubanes- war.	Sub-Division of Bhubaneswar, Khurda (excluding the revenue village of Narangarh in Tahsil Khurda) and Nayagarh in the District of Puri.
	11. Additional Sub-Judge, (Temporary), Koraput, Jeypore.	District of Koraput.

[No. F. 1(2)/HI.]

O. P. TALWAR, Under Secy.

*New Delhi, the 19th September 1963*

S.O. 2789.—In exercise of the powers conferred by sub-section (1) of section 4 of the Dock Workers (Regulation of Employment) Act, 1948 (9 of 1948), the Central Government hereby makes the following scheme further to amend the Vizagapatam Dock Workers (Regulation of Employment) Scheme, 1959, the same having been previously published as required by the said sub-section, namely:—

1. This Scheme may be called the Vizagapatam Dock Workers (Regulation of Employment) Amendment Scheme, 1963.

2. In the Vizagapatam Dock Workers (Regulation of Employment) Scheme, 1959,—

(i) for sub-clause (2) of clause 15, the following sub-clause shall be substituted, namely:—

“(2) Dock Workers registered under the Scheme shall be classified into:—

- (a) Deck Foreman
- (b) Tindal
- (c) Winchman
- (d) Signalman-cum-Tipper
- (e) Leading Mazdoor
- (f) Stevedore, Mazdoor,
- (g) Tally Clerk”;

(ii) for clause 29, the following clause shall be substituted, namely:—

“29. Filling up of Casual Vacancies:—Casual vacancy in the monthly and reserve Pool registers for the category of Tindal, Winchman and Signalman-cum-Tipper shall be filled by rotational booking amongst panelled workers of these categories in that shift. The resultant vacancy in the category of Stevedore Mazdoor shall be filled by a worker included in a sub-pool by rotational booking”; and

(iii) for item (2) of Schedule I, the following item shall be substituted, namely:—

“(2) The following categories of stevedore workers:—

- (a) Deck Foreman
- (b) Tindal
- (c) Winchman
- (d) Signalman-cum-Tipper



- (e) Leading Mazdoor  
(f) Stevedore Mazdoor  
(g) Tally Clerk."

[No. 526/20/62-Fac.]

K. D. HAJELA, Under Secy.

New Delhi, the 20th September 1963

**S.O. 2790.**—In exercise of the powers conferred by sub-section (1) of section 5 of the Iron Ore Mines Labour Welfare Cess Act, 1961 (58 of 1961) read with rule 31 of the Iron Ore Mines Labour Welfare Cess Rules, 1963, the Central Government hereby specifies the following officers mentioned in column (1) of the Schedule below to be the Iron Ore Mines Cess Commissioners who shall be responsible for the assessment and collection of the cess levied under the said Act in the areas mentioned in the corresponding entry in column (2) thereof;

**SCHEDULE**

(1)	(2)
1. Deputy Commissioner of Labour, Hyderabad.	State of Andhra Pradesh.
2. Deputy Commissioner, Singhbhum	State of Bihar.
3. Labour Commissioner, Indore.	State of Madhya Pradesh.
4. Director of Geology and Mining, Nagpur.	State of Maharashtra.
5. Deputy Labour Commissioner, Bangalore.	State of Mysore.
6. Labour Commissioner, Punjab.	State of Punjab.
7. Director of Mines & Geology, Udaipur.	State of Rajasthan.

[No. 4(2)62-MIII.]

**S.O. 2791.**—In exercise of the powers conferred by section 2 of the Iron Ore Mines Labour Welfare Cess Act, 1961 (58 of 1961), the Central Government hereby fixes a duty of excise at the rate of 25 nP. (Twentyfive naya paise only) per metric tonne on all iron ore produced in any mine situated in the territories to which the said Act extends and further appoints the 1st October 1963 as the date with effect from which the said duty shall be levied and collected.

[No. 9(7)61-MIII.]

New Delhi, the 23rd September 1963

**S.O. 2792.**—In pursuance of the provisions of proviso (b) to sub-regulation (1) of regulation 16 of the Metalliferous Mines Regulations, 1961, the Central Government hereby approves the educational institutions mentioned under column I of the table below in respect of such diplomas, certificates, degrees or other qualifications awarded by them as are specified in the corresponding entry under column II of the said table.

**TABLE**

I	II
Name of Institution	Degrees, Diplomas or Certificates awarded

**INDIA**

1. Any University in India established by law Degree in applied geology or in Civil, mechanical or electrical engineering.

I	II
2. Indian School of Mines, Dhanbad	(i) Certificate in Geology (Awarded upto 1950-51) (ii) Diploma of Associateship in Geology (Awarded upto 1950-51) (iii) Diploma of Associateship in Applied Geology.
3. Delhi Polytechnic	Diploma in Civil, Electrical or Mechanical Engineering.

[No. 17/4/63-MI (i).]

**S.O. 2793.**—In pursuance of the provisions of proviso (a) to sub-regulation (1) of regulation 16 of the Metalliferous Mines Regulations, 1961, the Central Government hereby approves the educational institutions mentioned under column I of the table below in respect of such diplomas or degrees or other qualifications awarded by them as are specified in the corresponding entry under column II of the said table.

TABLE

I	II
Name of Institution	Degrees, Diplomas Certificates awarded

## INDIA

- |   |   |
|---|---|
| 1. Any University in India established by law | Degree in Mining.   |
| 2. Indian School of Mines, Dhanbad            | (i) Certificate in Metal Mining (Awarded upto 1938-39).<br>(ii) Diploma of Associateship in Mining Engineering. |

## UNITED KINGDOM

- |                      |  |
|----------------------|--|
| 1. London University | (i) Degree in B.Sc. in Mining for Internal Students subject to the Degree being endorsed by the University with a certificate of four months' practical experience in a mine.<br>(ii) Degree of B.Sc. in Mining for External Students. |
|----------------------|--|

## U.S.A.

- |                             |                               |
|-----------------------------|-------------------------------|
| 1. Colorado School of Mines | Degree in Mining Engineering. |
|-----------------------------|-------------------------------|

[No. 17/4/63-MI (ii).]

**S.O. 2794.**—In pursuance of the provisions of second proviso to sub-regulation (1) of regulation 18 of the Metalliferous Mines Regulations, 1961, the Central Government hereby approves the educational Institutions mentioned under column I of the table below in respect of such certificates, diplomas, degrees or other qualifications awarded by them as are specified in the corresponding entry under column II of the said table.

TABLE

I	II
Name of Institution	Degrees, Diplomas or Certificates awarded
<b>INDIA</b>	
1. Any University in India established by law	Degree in Mining.
2. Indian School of Mines, Dhanbad	(i) Certificate in Metal Mining (awarded upto 1938-39). (ii) Diploma of Associateship in Mining Engineering.
<b>UNITED KINGDOM</b>	
1. London University	(i) Degree in B.Sc. in Mining for Internal Students subject to the Degree being endorsed by the University with a Certificate of four months' practical experience in a mine. (ii) Degree of B.Sc. in Mining for External students.
<b>U.S.A.</b>	
1. Colorado School of Mines	Degree in Mining Engineering.

[No. 17/4/63-MI(iii)]

**S.O. 2795**—In pursuance of the proviso to regulation 17 of the Metalliferous Mines Regulations 1961, the Central Government hereby approves, for the purpose of the said regulation, the educational institutions mentioned under column I of the table below in respect of such degrees, diplomas or certificates awarded by them as are specified in the corresponding entry under column II of the said table.

TABLE

I	II
<b>INDIA</b>	
<i>(List of Institutions and authorities awarding Degree/Diploma in Mining, after a full time course of study)</i>	
1. Any University in India established by law	Degree in Mining.
2. Indian School of Mines, Dhanbad	(1) Certificate of Coal Mining (awarded upto 1950-51). (2) Certificate of Metal Mining (awarded upto 1938-39). (3) Diploma of Associateship in Mining Engineering.
3. Bengal Engineering College, Shibpur	Diploma in Mining (awarded upto 1929).
4. State Council for Engineering and Technical Education, West Bengal.	Licentiate Diploma in Mining Engineering.
5. Board of Technical Education, Rajasthan, Jodhpur.	Diploma in Mining.

## I

## II

- |  |                                       |
|--|---------------------------------------|
| 6. State Council of Technical Education and Training, Orissa.                                      | Diploma in Mining Engineering.        |
| 7. Central Board of Technical Examinations, Mysore.  | Licentiate in Mining Engineering.     |
| 8. Shri Jayachamarajendra Occupational Institute, Bangalore.                                       | Diploma in Mining.                    |
| 9. State Board of Technical Education and Training, Andhra Pradesh.                                | Diploma in Mines Engineering.         |
| 10. State Board of Technical Education (formerly Technological Diploma Examination Board), Madras. | Licentiate in Mining Engineering.     |
| 11. State Board of Technical Education, Bihar.   | Diploma in Mining and Mine Surveying. |
| 12. Madhya Pradesh Board of Technical Education, Bhopal.   | Do.                                   |

*List of Institutions and authorities awarding Degree/Diploma in Civil Engineering, after a full time course of study*

- |   |   |
|---|---|
| 1. Any University in India established by law   | Degree in Civil Engineering.  |
| 2. All India Council of Technical Education   | National certificate in Civil Engineering.                                |
| 3. Assam Engineering Institute, Gauhati   | Certificate in Civil Engineering.   |
| 4. Bihar College of Engineering, Patna  | (1) Surveyor's Certificate.<br>(2) Civil Engineering Subordinate Diploma. |
| 5. Board of Technical Education, Kerala   | Diploma in Civil Engineering  |
| 6. Board of Technical Education, Rajasthan, Jodhpur.  | Diploma in Civil Engineering.   |
| 7. Board of Technical Examination, Mysore (formerly Central Board of Technical Examination, Mysore)       | L.C.E./Diploma in Civil Engineering.                                      |
| 8. Civil Engineering School, Allahabad.   | Overseer Certificate.   |
| 9. Civil Engineering School, Lucknow.   | Overseer Certificate.   |
| 10. College of Engineering, Poona   | Civil Engineering Diploma prior to 1950.                                  |
| 11. College of Engineering, Guindy  | Upper Subordinate Diploma, L.C.E. from 1942 to 1953.                      |
| 12. College of Engineering, Osmania University (formerly Osmania Engineering College), Hyderabad.         | Upper Subordinate (1st Class) Overseer Certificate from 1941.             |
| 13. College of Engineering and Technology, Jadavpur.  | Diploma of the Overseer Course.   |
| 14. College of Military Engineering, Kirkee   | Overseer's Building and Road Course.                                      |
| 15. Department of Technical Education, Bombay   | Diploma in Civil Engineering.   |
| 16. Department of Technical Education, Gujrat State, Ahmedabad (previously Bombay).                       | Overseers Diploma.  |
| 17. Director General of Employment and Training (Ministry of Labour and Employment, Government of India). | Surveyor's Diploma.   |
| 18. Director of Industries, Punjab  | Common Civil Overseer's Certificate.                                      |
| 19. Government Polytechnic, Nagpur University (formerly Government Engineering School, Nagpur).           | (1) Surveyor's Certificate.<br>(2) L.C.E.                                 |
| 20. Government School of Engineering, Rasool  | Overseership Certificate.   |
| 21. Government Technical College, Hyderabad (formerly Osmania Technical College, Hyderabad).              | L.C.E.  |

I	II
22. Hewett-Engineering School, Lucknow	Overseer Certificate (granted by the Department of Public Instruction from 1936 to 1944 and by the U. P. Government from 1946).
23. H. R. H. the Prince of Wales Institute of Engineering and Technology, Jorhat.	Certificate in Civil Engineering.
24. Kalikata Shilpa Vidya Pith	L. C. E. awarded by the <i>Ad hoc</i> Committee Provincial Council for Engineering and Technical Education, West Bengal.
25. Kerala University (formerly Travancore University).	Diploma in Civil Engineering.
26. Mainamati Survey Institute, Tripura	Survey Final Examination.
27. M.E.M. Engineering College, Jodhpur	Diploma in Civil Engineering.
28. Murlidhar Gajan and Technical Institute, Hathras.	Surveyor's Examination.
29. Muslim University, Aligarh	Diploma in Civil Engineering.
30. Nagpur University	L.C.E.
31. National Council for Rural Higher Education	Diploma in Civil Engineering
32. Orissa School of Engineering, Cuttack	(1) Surveyor's Certificate. (2) Civil Engineering Subordinate Diploma, L.C.E.
33. Overseer Examination Board (Bengal) (Before partition).	L.C.E.
34. Polytechnic Faculty of Technological (including engineering) M. S. University of Baroda (Formerly Kalabhavan) renamed as Faculty of Technology (including engineering M.S. University, Baroda).	Diploma in Civil Engineering (obtained after a course of atleast three years.
35. Punjab Polytechnic (formerly Punjab Government School of Engineering, Nilotkheri).	Overseer's Diploma in Civil Engineering from December, 1947.
36. Ramgarhia Polytechnic, Phagwara (formerly Viswakarma Polytechnic Institute)	Diploma in Civil Engineering Course Overseer Course.
37. Saugar University	Diploma in Civil Engineering.
38. School of Engineering, Bangalore	Diploma in Civil Engineering.
39. Shri Jayachamarajendra Occupational Institute, Bangalore.	Diploma in Civil Engineering.
40. State Board of Technical Education and Vocational Training, Bihar.	Diploma in Civil Engineering after a course of study lasting for 2½ years.
41. State Board of Technical Education and Training, U. P. (formerly in <i>Ad hoc</i> Board of Engineering Education, U.P.).	Overseer Diploma in Civil Engineering.
42. State Board of Technical Education, Punjab	Overseer Diploma in Civil Engineering.
43. State Board of Technical Education and Training, A.P.	L. C. E.
44. State Board of Technical Education (formerly Technological Diploma Examination Board), Madras.	L.C.E./Diploma in Civil Engineering.
45. State Council of Technical Education, Assam.	Diploma in Civil Engineering
46. State Council of Engineering and Technical Education, West Bengal.	L. C. E.
47. Technological Diploma Examination Board, A.P.	L. C. E.
48. Trihat School of Engineering, Muzaffarpur.	Subordinate Engineering Course in Civil Engineering from 1952.

I	II
49. University of Roorkee, (formerly Thomson Civil Engineering College, Roorkee).	Diploma in Civil Engineering (formerly Civil Overseership).
50. West Bengal Survey Institute, Bandal . . .	Senior Surveyor's Certificate.
51. State Council of Technical Education and Training, Orissa.	Diploma in Civil Engineering.

## FOREIGN

1. N.E.D. Engineering, College, Karachi . . .	Diploma in Civil Engineering.
2. Ashanulla School of Engineering, Dacca . . .	Sub-Overseer's Diploma, L. C. E.
3. Government Technical Institute, Insein, Burma.	Diploma in Civil Engineering.
4. London University, U.K. . . . .	(1) B.Sc. Degree in Mining for Internal Students, subject to the degree being endorsed by the University with a certificate of four month's practical experience in a mine. (2) Degree of B. Sc. in Mining for External Students.
5. Colorado School of Mines, U.S.A. . . . .	Degree in Mining Engineering.

[No. 17/4/63-MI (iv) ]

**S.O. 2796.**—In pursuance of clause (ii) of sub-regulation (1) of regulation 24 of the Metalliferous Mining Regulations, 1961, the Central Government hereby approves, for the purpose of the said regulations, the educational institutions mentioned under column I of the table below in respect of such degrees, diplomas or certificates or other qualifications awarded by them as are specified in the corresponding entry under column II of the said table.

TABLE

I	II
INDIA	
<i>(List of Institutions and authorities awarding Degree/Diploma "in Mining, after a full time Course of study).</i>	
1. Any University in India established by law . . .	Degree in Mining.
2. Indian School of Mines, Dhanbad . . . . .	(1) Certificate of Coal Mining (awarded upto 1950-51). (2) Certificate of Metal Mining (awarded upto 1938-39). (3) Diploma of Associateship in Mining Engineering.
3. Bengal Engineering College, Sibpore . . . . .	Diploma in Mining (awarded upto 1929).
4. State Council for Engineering & Technical Education, West Bengal.	Licentiate Diploma in Mining Engineering.
5. Board of Technical Education, Rajasthan Jodhpur.	Diploma in Mining.
6. State Council of Technical Education & Training, Orissa.	Diploma in Mining Engineering.
7. Central Board of Technical Examinations, Mysore.	Licentiate in Mining Engineering.
8. Shri Jayachamarajendra Occupational Institute, Bangalore.	Diploma in Mining.

I	2
9. State Board of Technical Education and Training, Andhra Pradesh.	Diploma in Mines Engineering.
10. State Board of Technical Education (formerly Technological Diploma Examination Board), Madras.	Licentiate in Mining Engineering.
11. State Board of Technical Education, Bihar	Diploma in Mining & Mine Surveying.
12. Madhya Pradesh Board of Technical Education, Bhopal.	Do.

*List of Institutions and authorities awarding Degree/Diploma in Civil Engineering after a full time course of study*

I	II
1. Any University in India established by law	Degree in Civil Engineering.
2. All India Council of Technical Education	National Certificate in Civil Engineering.
3. Assam Engineering Institute, Gauhati	Certificate in Civil Engineering.
4. Bihar College of Engineering, Patna	(1) Surveyor's Certificate. (2) Civil Engineering Subordinate Diploma.
5. Board of Technical Education, Kerala	Diploma in Civil Engineering.
6. Board of Technical Education, Rajasthan, Jodhpur.	Diploma in Civil Engineering.
7. Board of Technical Examination, Mysore (formerly Central Board of Technical Examination, Mysore).	L.C.E./Diploma in Civil Engineering.
8. Civil Engineering School, Allahabad	Overseer Certificate.
9. Civil Engineering School, Lucknow	Overseer Certificate.
10. College of Engineering, Poona	Civil Engineering Diploma prior to 1950.
11. College of Engineering, Guindy	Upper Subordinate Diploma, L.C.E. from 1942 to 1953.
12. College of Engineering, Osmania University (formerly Osmania Engineering College) Hyderabad.	Upper Subordinate (1st Class) Overseer Certificate from 1941.
13. College of Engineering and Technology, Jadavpur.	Diploma of the Overseer Course.
14. College of Military Engineering, Kirkee	Overseer's Building and Road Course.
15. Department of Technical Education, Bombay	Diploma in Civil Engineering.
16. Department of Technical Education, Gujarat State, Ahmadabad (previously Bombay).	Overseer's Diploma.
17. Director General of Employment and Training (Ministry of Labour & Employment, Govt. of India).	Surveyor's Diploma.
18. Director of Industries, Punjab	Common Civil Overseer's Certificate
19. Government Polytechnic, Nagpur University (formerly Govt. Engineering School, Nagpur)	(1) Surveyor's Certificate. (2) L. C. E.
20. Government School of Engineering, Rasool	Overseership Certificate.
21. Government Technical College, Hyderabad (formerly Osmania Technical College, Hyderabad).	L. C. E.
22. Hewett-Engineering School, Lucknow	Overseer Certificate (granted by the Department of Public Instruction from 1936 to 1944 and by the U.P. Government from 1946.)

## I

## II

23. H.R.H. the Prince of Wales Institute of Engineering and Technology, Jorhat. Certificate in Civil Engineering.
24. Kalikata Shilpa Vidya plth . . . . . L.C.E. awarded by the *Ad hoc* Committee Provincial Council for Engineering and Technical Education, West Bengal.
25. Kerala University (formerly Travancore University). Diploma in Civil Engineering.
26. Mainamati Survey Institute, Tripura . . . . . Survey Final Examination.
27. M.B.M. Engineering College, Jodhpur . . . . . Diploma in Civil Engineering.
28. Murlidhar Gajan and Technical Institute, Hathras. Surveyor's Examination.
29. Muslim University, Aligarh . . . . . Diploma in Civil Engineering.
30. Nagpur University . . . . . L. C. E.
31. National Council for Rural Higher Education Diploma in Civil Engineering.
32. Orissa School of Engineering, Cuttack . . . . . (1) Surveyor's Certificate.  
(2) Civil Engineering Subordinate Diploma, L.C.E.
33. Overseer Examination Board, Bengal (before partition). L. C. E.
34. Polytechnic Faculty of Technological (including engineering) M.S. University of Baroda (formerly Kalabhavan renamed as Faculty of Technology including engineering M.S. University, Baroda). Diploma in Civil Engineering (obtained after a course of at least three years.)
35. Punjab Polytechnic (formerly Punjab Government School of Engineering, Nilokheri). Overseer's Diploma in Civil Engineering from December, 1947.
36. amgarhia Polytechnic, Phagwara (formerly Viswakarma Polytechnic Institute). Diploma in Civil Engineering Course, Overseer Course.
37. Saugar University . . . . . Diploma in Civil Engineering.
38. School of Engineering, Bangalore. . . . . Diploma in Civil Engineering.
39. Shri Jayachamarajendra Occupational Institute, Bangalore. Diploma in Civil Engineering.
40. State Board of Technical Education and Vocational Training, Bihar. Diploma in Civil Engineering after a course of study lasting for 2-1/2 years.
41. State Board of Technical Education and Training, U.P. (formerly *Ad hoc* Board of Engineering Education, U.P.) Overseer Diploma in Civil Engineering.
42. State Board of Technical Education, Punjab . Overseer Diploma in Civil Engineering.
43. State Board of Technical Education and Training, A.P. L. C. E.
44. State Board of Technical Education (formerly Technological Diploma Examination Board) Madras. L.C.E./Diploma in Civil Engineering.
45. State Council of Technical Education, Assam . Diploma in Civil Engineering.
46. State Council of Engineering and Technical Education, West Bengal. L. C. E.
47. Technological Diploma Examination Board, A.P. L. C. E.
- . Trihat School of Engineering, Muzaffarpur . Subordinate Engineering course in civil engineering from 1952.
49. University of Roorkee (formerly Thomson Civil Engineering College, Roorkee). Diploma in Civil Engineering (formerly Civil Overseership).
50. West Bengal Survey Institute, Bandal . . . . . Senior Surveyor's Certificate.
- Technical Education and Diploma in Civil Engineering.
- Training, Orissa .



## I

## II

## FOREIGN

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|--|---|
| 1. N.E.D. Engineering College, Karachi . . . . .             | . . . . . Diploma in Civil Engineering.   |
| 2. Ashanulla School of Engineering, Dacca . . . . .          | . . . . . Sub-Overseer's Diploma, L.C.E.  |
| 3. Government Technical Institute,<br>Insein, Burma. . . . . | . . . . . Diploma in Civil Engineering.   |
| 4. London University, U.K. . . . .                           | . . . . . (1) B.Sc. Degree in Mining for Internal<br>students, subject to the degree being en-<br>dorsed by the University with a certificate<br>of four months practical experience in a<br>mine.<br>(2) Degree of B.Sc. in Mining for External<br>Students. |
| 5. Colorado School of Mines, U.S.A. . . . .                  | . . . . . Degree in Mining Engineering.   |

[No. 17/4/63-MI (v)]

R. C. SAKSENA, Under Secy.

